No. 16-1498

In The Supreme Court of the United States

WASHINGTON STATE
DEPARTMENT OF LICENSING,

Petitioner,

v.

COUGAR DEN, INC.,
A YAKAMA NATION CORPORATION,

Respondent.

On Writ Of Certiorari To The Supreme Court Of Washington

BRIEF OF *AMICUS CURIAE* CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICUS CURIAE*[1]

The Confederated Tribes and Bands of the Yakama Nation is a sovereign, federally recognized Native Nation and signatory to the Treaty with the Yakamas, 12 Stat. 951 (June 9, 1855, ratified March 8, 1859, proclaimed April 18, 1859) [hereinafter "Yakama Treaty"]. This dispute directly implicates the Yakama Treaty, as supported by the Treaty's historical context and the official minutes of the Treaty negotiations. The Yakama Treaty and the Treaty Minutes are set forth in full at App. A 1-14 and at App. B 15-117. At issue here is Article III, paragraph 1 of the Yakama Treaty:

> *And provided*, That, if necessary for the public convenience, roads may be run through the said reservation; and on the other hand, the right of way, with free access from the same to the nearest public highway, **is secured to them; as also the right, in common with citizens of the United States, to travel upon all public highways**.

12 Stat. at 952-953, App. A 6 (emphasis added). This is a right reserved to the Yakama Nation. As an exercise of our inherent sovereignty, we regulate our Members' and Yakama Nation licensed businesses' exercise of this Treaty-reserved right to travel and trade. Our

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[1] *Amicus curiae* represents that no counsel for any party authorized this brief in whole or in part, and that no person or entity, other than *amicus curiae*, its members, or its counsel, made a monetary contribution to the preparation or submission of this brief. All parties have consented to this filing.

interest as *amicus curiae* is to provide historical context that frames the Yakama Treaty and our ancestors' understanding of the rights reserved therein.[2]

SUMMARY OF ARGUMENT

The Washington Supreme Court correctly recognized that Article III, paragraph 1 of the Yakama Treaty secures for Cougar Den—a corporation licensed and regulated under the laws of the Yakama Nation—the right to import fuel into the Yakama Reservation upon public highways free from any state-imposed preconditions or encumbrance. The court's holding is supported by the Supremacy Clause of the United States Constitution, which provides that treaties made under the United States' authority are "the supreme Law of the Land and the Judges in every State shall be bound thereby." U.S. CONST. art. VI, § 2. Accordingly, the State's efforts to tax Cougar Den's 'importation' of goods over public highways must yield to our Treaty-reserved rights.

The State's arguments for ignoring the Washington Supreme Court's interpretation of a state statute principally rely on three cases, *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973), *Wagnon v. Prairie Band Potawatomi Nation*, 546 U.S. 95 (2005), and *Chickasaw Nation v. United States*, 534 U.S. 84 (2001). All are

[2] All statements made in the first person are offered at the direction of the Confederated Tribes and Bands of the Yakama Nation as directed by the Yakama Nation Tribal Council.

rooted in the doctrine of Christian discovery rather than the Yakama Treaty, and should not be applied here. The 'doctrine of Christian discovery' is the legal fiction that Christian Europeans immediately and automatically acquired legally recognized property rights in our lands upon reaching the Americas, thereby diminishing our sovereignty. Courts have used the doctrine to build a false legal framework to attack Native sovereignty, which the State attempts to deploy here through the aforementioned cases. The Court should expressly repudiate the doctrine and instead rely on the Yakama Treaty as the foundation for its analysis in this dispute.

When interpreting our Treaty, courts must "look beyond the written words to the larger context that frames the Treaty, including 'the history of the treaty, the negotiations, and the practical construction adopted by the parties.'" *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 196 (1999) (citing *Choctaw Nation v. United States*, 318 U.S. 423, 432 (1943)). The most comprehensive examination of the public highway clause's history, meaning, and scope occurred in *Yakama Indian Nation v. Flores*, 955 F. Supp. 1229 (E.D. Wash. 1997), *aff'd sub nom. Cree v. Flores*, 157 F.3d 762 (9th Cir. 1998). In *Yakama Indian Nation*, the district court issued 90 findings of fact, considered 129 exhibits, and ultimately held that "both parties to the treaty expressly intended that the Yakamas would retain their right to travel outside reservation boundaries, **with no conditions attached**" and that the public highway clause "was clearly intended to reserve

the Yakamas' right to travel on the public highways **to engage in *future* trading endeavors.**" *Id.* at 1251, 1253 (emphasis added). Consistent with this Court's canons of treaty construction, the Ninth Circuit Court of Appeals affirmed these conclusions that the Yakama Treaty extends and protects our economic activities beyond reservation boundaries. *Cree v. Flores*, 157 F.3d at 769 (holding that Article III "guarantee[s] the Yakamas the right to transport goods to market" for "trade and other purposes," and if a state fee or restriction interferes with this right to transport, then it is per se invalid) [hereinafter "*Cree* II"].

As implemented, Washington's fuel importation tax[3] levies a tax and imposes licensing requirements on a specific activity—the 'importation' of fuel, i.e., transporting fuel, into Washington. *Cougar Den, Inc. v. Wash. State Dep't of Licensing*, 188 Wash. 2d 55, 69 (Wash. 2017). The Washington Supreme Court correctly determined this statutory "importation tax" places an impermissible condition on the exercise of a Treaty-protected activity. *Id.* at 66 (citing the State's opening brief, which declared that Cougar Den "is being taxed for importing fuel."). The court held "it was simply not possible for Cougar Den to import fuel without traveling or transporting that fuel on public highways," and because Article III's public highway clause

[3] State's *amicus curiae*, The Washington Oil Marketers Association and Washington Association of Neighborhood Stores, falsely implies that the State collects and remits 75% of its collected fuel tax revenue to the Yakama Nation. Br. 6, n. 3. There is no fuel tax compact between the Yakama Nation and the State, nor any such remittance.

"protects [our] historical practice of using the roads to engage in trade and commerce," Cougar Den is exempt from the State's "importation tax." *Id.* at 67, 69. The Washington Supreme Court's decision is consistent with federal precedent, and we respectfully request this Court affirm that decision.

This brief (1) discusses the legal context for the relationship between the Yakama Nation and the United States, (2) provides a history of our People and of the negotiations resulting in the Yakama Treaty, and (3) reviews the relevant federal precedent discussing the context and interpretation of Article III, paragraph 1's public highway clause.

LEGAL CONTEXT

I. THE RELATIONSHIP BETWEEN THE UNITED STATES AND THE YAKAMA NATION IS FOUNDED ON THE YAKAMA TREATY, NOT THE DOCTRINE OF CHRISTIAN DISCOVERY.

The Yakama Treaty is the organic document establishing the government-to-government relationship between the United States and the Yakama Nation. It serves as the basis for any dispute concerning our rights. However, courts have systematically attempted to undermine our Treaty rights by imposing an imaginary prior relationship sourced in the doctrine of Christian discovery. Under that doctrine, this Court judicially manufactured an extra-constitutional

congressional plenary authority to abrogate treaties and regulate Native Nations. This manufactured authority rests on the false assertion that our sovereignty and free and independent existence were "necessarily diminished" upon Christian European arrival on the North American continent. *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543, 574 (1823). For nearly two centuries this Court has dehumanized original, free, and independent Nations and Peoples by issuing decisions and using language consistent with the doctrine's religious and racist foundations—e.g., red man, uncivilized, barbarous, ignorant, unlearned, non-Christians, heathens, savages, infidels—all in an effort to manufacture a legal basis for the physical and cultural genocide of Native Peoples.

Here, the State urges this Court to discard the Yakama Nation's Treaty-reserved right to travel and trade using precedent that is firmly rooted in the doctrine. This doctrine of domination and dehumanization—Christian discovery—is not welcome within Yakama Territory, and should no longer be tolerated in United States law. The Yakama Nation respectfully calls on this Court to repudiate the doctrine of Christian discovery and its racist foundations as the basis for federal Indian law, and instead acknowledge and rely upon the solemn Treaty negotiated between the Yakama Nation and the United States in this dispute and into the future.

A. Doctrine Of Christian Discovery—Origins And Historical Use By The Court.

Since time immemorial, those Nations that would later be confederated as the Yakama Nation exercised natural rights of sovereignty over our lands and Peoples. Yakama culture, as protected and practiced by thousands of us to this day, relies on the responsible use of the Creator's gifts of water, fish, game, roots, and berries found within our lands. The Yakama Treaty was negotiated to protect these reserved rights and natural capital for our future generations, including the preservation of our traditional system of trade beyond reservation boundaries. There is no document more important to us than our Treaty. Just as it was on June 9, 1855, the Yakama Treaty remains the foundation for the Yakama Nation's government-to-government relationship with the United States today. What the United States failed to explain during the Treaty negotiations is that the doctrine of Christian discovery threatened the unilateral abrogation of everything our ancestors fought to preserve in the Yakama Treaty.

The doctrine of Christian discovery is the legal fiction that Christian Europeans automatically acquired legally recognized property rights in all Native lands upon reaching the Americas, as well as governmental, political, and commercial rights over the inhabitants without the knowledge or consent of Native Peoples. Robert J. Miller et al., *Discovering Indigenous Lands* 2 (2010). This doctrine was propagated by the Roman Catholic Church through a series of papal bulls in the 15th century, including Pope Nicholas' 1455 papal bull

authorizing Portugal to "invade, search out, capture, vanquish, and subdue all Saracens and pagans" and to place them into perpetual slavery and take their property. *Id.* at 11. The Roman Catholic Church then implemented a framework where the right to subjugate the Americas was split between Spain and Portugal, although they were later joined by other European states. *Id.* at 12. The doctrine was therefore one of domination and dehumanization of Native Peoples, and was used to perpetuate the most widespread genocide in human history. Robert A. Williams, Jr., *The American Indian in Western Legal Thought* 317 (1990). The United States relies on this genocidal religious doctrine to diminish Native sovereignty to this day.

This Court first applied the doctrine to Native Nations in *Johnson v. M'Intosh*, thereby enshrining in American jurisprudence "the legacy of 1,000 years of European racism and colonialism directed against non-Western peoples." *Id.* In *M'Intosh*, the Court considered a dispute over competing land claims that hinged on the scope of the "power of Indians to give, and of private individuals to receive, a title which can be sustained in the Courts of this country." 21 U.S. at 572. The dispute arose after the Illinois and Piankeshaw Nations sold certain parcels of land to a private purchaser, and then sold the same land to the United States. To address the competing land claims, the Court determined that private citizens could not purchase lands from Native Nations, and likewise that Native Nations could not convey land to anyone but the United States. In rejecting the Native Nations'

sovereign rights to sell their lands to whomever they pleased, Chief Justice Marshall explained that:

> It has never been doubted, that either the United States, or the several States, had a clear title to all the lands . . . subject only to the Indian right of occupancy, and that the exclusive power to extinguish that right, was vested in that government which might constitutionally exercise it.

Id. at 584-585. In other words, the Court found that the United States holds clear title to all Native lands subject only to the Native Nation's right of occupancy, which the United States can terminate through purchase or conquest. The basis for this holding is the doctrine of Christian discovery, which the Court described as the principle "that discovery gave title to the government . . . against all other European governments, which title might be consummated by possession." *Id.* at 573. Chief Justice Marshall detailed the effects of the doctrine as giving the United States "ultimate dominion" over Native lands. *Id.* at 574. He used this religious doctrine of domination and dehumanization to unilaterally deprive Native Nations of their sovereign rights, racially juxtaposing the rights of "Christian people" against those "heathens" and "fierce savages." *Id.* at 577, 590.

The domination imposed by *M'Intosh* constitutes a sweeping and unsubstantiated deprivation of the natural sovereign rights of Native Nations. By merely setting foot on a fully populated North American continent, Christian Europeans and, as a successor, the

United States claimed a right to the real property of all Native Nations. Chief Justice Marshall acknowledged this absurdity in his opinion, stating:

> However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned.

Id. at 591. Despite saying the doctrine could not be questioned, he repeatedly questioned his reliance on the doctrine in *Worcester v. Georgia*, 31 U.S. 515, 543-545 (1832), asking how foreigners could claim property rights and dominion over free nations of other places, and how discovery of an already inhabited country annulled the pre-existing rights of ancient possessors. Arguably, Chief Justice Marshall overruled *M'Intosh* in *Worcester*, explaining that the doctrine only gave the United States "the exclusive right to purchase" Native lands, rather than vesting fee title in the United States subject only to the Native right of occupancy. *Id.* at 544. However, this Court's subsequent precedent largely relies on *M'Intosh* rather than *Worcester* to define Native sovereignty and land rights.

While the direct casualties of *M'Intosh* were Native land rights and the millions of Native Peoples who died in the wake of the ongoing doctrine-based genocide, the doctrine has been used regularly by this Court

to diminish Native sovereignty. In *United States v. Kagama*, 118 U.S. 375 (1886), and *Lone Wolf v. Hitchcock*, 187 U.S. 553, 565-566 (1903), the Court announced Congress' extra-constitutional plenary power over all Indian affairs—the plenary power doctrine—which it justified by pointing to Native Nations' loss of sovereign, diplomatic, economic, and property rights upon first 'discovery' by Europeans. In *The Cherokee Tobacco*, 78 U.S. (11 Wall.) 616 (1870), the Court applied the doctrine and held that Congress can unilaterally abrogate Treaty rights with subsequent legislation unless there is an express exemption provided in the Treaty—the last-in-time doctrine. In *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 209 (1978), the Court deprived Native Nations of criminal jurisdiction over non-members based on the statement in *M'Intosh* that Native Nations' rights "to complete sovereignty, as independent nations, were necessarily diminished" by European 'discovery'—the diminished tribal sovereignty doctrine.

Federal courts continue to use these judicial constructs to dominate Native Nations and narrow the legal exercise of Treaty rights today. We see this as the gradual push towards the outright judicial termination of Native Nations.

B. Opportunity To Repudiate The Doctrine Of Christian Discovery.

Applied here, both the State and the United States ask the Court to rely on the doctrine to the detriment

of our Treaty-reserved rights. Both briefs rely on *Wagnon v. Prairie Band Potawatomie Nation*, and interchangeably, *Mescalero Apache Tribe v. Jones*, for the proposition that outside Indian Country, Indians are subject to non-discriminatory state laws unless an express federal law says otherwise. Pet. Br. 20-21; United States Br. 13. The Court in *Mescalero* cites *Ward v. Race Horse*, 163 U.S. 504 (1896), for the same proposition, and in *Race Horse* the Court abrogated the 1868 Treaty with the Eastern Band Shoshoni and Bannock Nation based on the transfer of the United States' claim to absolute title over Native lands and Native rights (i.e., the doctrine of Christian discovery) to Wyoming. In other words, both the State's and United States' assertions under *Wagnon* and *Mescalero* are directly linked to the doctrine.

The same analysis is applicable to *Chickasaw Nation v. United States*, which the State asserts for the idea that state tax exemptions for Native peoples outside Indian Country must be clearly expressed and unambiguously proved. Pet. Br. 20. When the Court applied this legal concept in *Chickasaw Nation*, it relied on *United States v. Wells Fargo Bank*, 485 U.S. 351 (1988), which cites to *Oklahoma Tax Comm'n v. United States*, 319 U.S. 598 (1943), which cites to *The Cherokee Tobacco*, which relies explicitly on the doctrine as aforesaid. When the State argues for application of this tax precedent to undermine our inherent sovereign and Treaty-reserved rights, they are asking this Court to continue wielding the sword of the religious, racist,

genocidal, fabricated doctrine of Christian discovery against our People.

This Court's most troubling decisions throughout history have, in many instances, been repudiated by later Courts. The 'separate but equal' doctrine that justified the segregation of American schools was upheld in *Plessy v. Ferguson*, 163 U.S. 537 (1896), but overturned in *Brown v. Board of Education*, 347 U.S. 483 (1954). The right of interracial couples to marry was denied in *Pace v. Alabama*, 106 U.S. 583 (1883), but upheld in *McLaughlin v. Florida*, 379 U.S. 184 (1964), and *Loving v. Virginia*, 388 U.S. 1 (1967). Poll taxes were validated in *Breedlove v. Suttles*, 302 U.S. 277 (1937), but deemed unconstitutional in *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966). These cases rely on the Fourteenth Amendment which has no bearing here, but the extra-constitutional justification for the doctrine and related jurisprudence make the doctrine of Christian discovery ripe for a similar re-evaluation by this Court. Where a centuries-old doctrine no longer comports with the morals of the time, the use of that doctrine should no longer withstand the Court's scrutiny.

We call on this Court to repudiate the doctrine of discovery, and in this case and all future cases involving our inherent sovereignty and Treaty-reserved rights, rely on the solemn promises made between the United States and the Yakama Nation as the basis for the Court's legal analysis. Here, this counsels an analysis that both starts and stops with the Yakama Treaty, interpreted in accordance with the Treaty Minutes and

with deference to our ancestors' understanding of the Treaty pursuant to the canons of treaty construction.

ARGUMENT

For most people the domination and dehumanization of Native Nations would cause grief. The State sees it as an opportunity to collect revenue. For the State, our history, Treaty, and reserved rights are an inconvenience; however, an inconvenience to the State does not justify undermining the Treaty-reserved rights that shield our people from state laws that encumber, condition, or restrict the exercise of our Treaty-protected activities.

In defiance of the widely accepted history of our people, the State asserts that nothing in our Treaty preempts the State's importation tax. Pet. Br. 17. The State claims the Washington Supreme Court relied on a "lopsided and incomplete description of how [our ancestors and the United States] allegedly understood the treaty when it was signed." *Id.* The State then claims that "[n]othing in the treaty's text or negotiating history suggests that the parties understood they were creating a permanent right for the Yakamas to be free of taxes on goods simply because they transport those goods by highway." *Id.*

In this revealing moment, the State details its true intentions. The State asks this Court to align with its self-serving narrative concerning the circumstances and context under which the Treaty was forced upon a

free and independent people. The State seeks to advance a false narrative that contradicts our ancestors' understanding, as confirmed by historians and accepted as findings of fact by both this Court and others. The State asks this Court to rewrite our history and undermine the promises guaranteed to our ancestors in 1855. The State's intentions are revisionist history at its worst.

The self-serving narrative offered by the State is patently offensive and must be rejected. The United States negotiated the Yakama Treaty to avoid conflict, secure certain rights to millions of acres of land for settlers, and to build a railroad across our homelands. The record shows that our ancestors understood the Treaty to preserve their tradition of extensive travel and trade without economic restrictions. *See Cree* II, 157 F.3d at 769 (the public highway clause "guarantee[s] the Yakamas the right to transport goods to market over public highways without payment of fees for that use."). Our understanding of this sacred Treaty right is consistent with the unequivocal promises made by the United States' negotiators in 1855 that "**you can rely on all its provisions being carried out strictly**." Minutes, App. B 51 (emphasis in original).

The relevant inquiry for this Court is our understanding of the Yakama Treaty's public highway clause within the Treaty's historical context. *See Mille Lacs Band*, 526 U.S. at 196 (when interpreting a treaty courts must "look beyond the written words to the larger context that frames the Treaty, including 'the history of the treaty, the negotiations, and the practical

construction adopted by the parties.'"). The record of the Walla Walla Council negotiations reflects that the parties intended to preserve the traditional system of trade and exchange we had engaged in since time immemorial. This Court should interpret the Yakama Treaty consistent with this well-documented truth.

I. ARTICLE III OF THE YAKAMA TREATY RESERVES THE YAKAMA NATION'S RIGHT TO TRAVEL AND TRADE OUTSIDE THE YAKAMA RESERVATION.

A. Since Time Immemorial, Travel And Trade Have Been Central To Yakama Culture And Traditions.

In pre-contact times our ancestors ranged over 12,000,000 acres from the confluence of the Columbia and Methow Rivers southwesterly along the Columbia to the Cascade Range. This territory included Mount Adams in the Cascades and the north side of the Snake River, downstream of the confluence of the Palouse. From this territory, our ancestors traveled to fish, hunt and trade both westward to the Puget Sound and Willamette Valley, and eastward to the buffalo country in the Plains. Above all, our ancestors were people of the land who followed a seasonal cycle of movement that was governed by kinship, cultural practices, geography, climate, and availability of resources. *See Yakama Indian Nation*, 955 F. Supp. at 1238, 1262-1263. Freedom of movement was key to our ancestors' way of life, and it remains so today.

In economic terms, the lands, waters and salmon producing capacity of our traditional territories represented the 'natural capital' upon which our ancestors depended. This natural capital produced the annual harvests of salmon and other fish, of game, and of roots, berries and plants that our ancestors used to survive and prosper. They "traded these items for goods such [as] buffalo products, especially buffalo hide and dried buffalo meat." *Id.* at 1238. This traditional system of trade and exchange supported their subsistence, religious and cultural practices, and "[t]herefore, propitious trading was considered the art of survival." *Id.* at 1239 (internal quotations omitted).

Our ancestors' way of life depended on goods that were not available in the immediate area. In addition to the constant trading between the fourteen tribes and bands that now comprise the Yakama Nation, our ancestors traveled "to the Pacific Coast, the Columbia River, the Willamette Valley, California, and the plains of Wyoming and Montana to engage in trade" with other Native Nations. *Id.* at 1238. They also traded goods with non-Indians, including settlers and commercial traders such as those from the Hudson's Bay Company. *Id.* Our ancestors, given their central location, were the linchpin in a well-defined trading network involving the exchange of goods and services existing between Native Nations throughout the Pacific Northwest and surrounding areas.

B. Territorial Governor Isaac Stevens Knew The Importance Of Trade And Travel To Our Ancestors Prior To Negotiating The Yakama Treaty.

The United States claimed the area now embraced within the State of Washington by discovery, settlement, and by extinguishing the conflicting claims of Spain (1819), Russia (1824), and Great Britain (1846) by treaty. *United States v. Washington*, 384 F. Supp. 312, 353 (W.D. Wash. 1974), *aff'd*, 520 F.2d 676 (9th Cir. 1975). In 1848 Congress established the Oregon Territory, 9 Stat. 323 (Aug. 14, 1848), and in 1850 Congress authorized the negotiation of treaties to extinguish Indian title to lands lying in the Oregon Territory. 9 Stat. 437 (June 5, 1850). The Washington Territory—including the present day State of Washington—was then organized out of the Oregon Territory in 1853. 10 Stat. 172 (Mar. 2, 1853).

The United States was under pressure to negotiate treaties with Native Nations in the eastern Washington Territory because our lands were important for future settlement plans. To accomplish this task, the United States authorized Isaac Stevens, Governor of the Washington Territory, and General Joel Palmer, Superintendent of Indian Affairs in the Oregon Territory, to negotiate treaties on the United States' behalf. Governor Stevens was prompted to extinguish title to lands belonging to our ancestors, or obtain a right of way through our lands, for the purpose of constructing a railroad route through the Cascade Mountains to Puget Sound, and to secure land for settlers moving into

the Washington Territory. *Washington v. Fishing Vessel Ass'n*, 443 U.S. 658, 699 (1979) (Stevens, J., dissenting).

The evidence reflects that Governor Stevens and his emissaries had significant knowledge of our character and lifestyle as the great traders and travelers of the Central Plateau. In the years before the Treaty, Governor Stevens' emissaries described our ancestors as "manifesting a peculiar aptitude for trading," purchasing from the settlers "feathers, beads, cloth, and other articles prized by Indians," and "exchanging them for horses, which they in turn sell in the settlements." *See* Report of Mr. George Gibbs to Captain Mc'Clellan, on the Indian Tribes of the Territory of Washington, March 4, 1854, published as *Indian Tribes of the Washington Territory* 3 (1978).

They recognized the existence of our trading routes, noting that our ancestors were persistent traders west of the Cascade Mountains, traveling on trails through "the [Naches] and main Yakima passes, taking horses for sale to Nisqually, and to purchasing [dentalium shells], dried clams, and other savage merchandise, on their return." *Id.* at 8; *see also United States v. Washington*, 384 F. Supp. at 380 (finding our ancestors traded with Native Nations west of the Cascade Mountains using trails through the Snoqualmie, Naches, and Stevens passes). They knew our trading routes reached the Nez Perce Country in the Snake River basin. Report of A.J. Bolon to His Excellency Isaac I. Stevens, Governor and Superintendent of Indian Affairs, Washington Territory, September 30, 1854, records of the Washington Superintendent of Indian

Affairs 1853-1874 (stating "I learned from him that a route exists from the Salmon Falls of the Snake to the Yakima, much shorter than any pursued by the whites, & without hills.").

Governor Stevens' emissaries also knew that our ancestors traveled to and controlled parts of the Willamette River system in Oregon, stating: "[t]hey thus became acquainted with other parts of the country, as well as with the advantage to be derived from trade. It was not, however, until about 1839 that they crossed the Columbia, when they overran the Willamette valley, attracted by the game with which it abounded, and which they destroyed in defiance of the weak and indolent Callapooyas. They still boast that they taught the latter to ride and hunt." Report of Mr. George Gibbs, 3. This route was the principal route traveled by our ancestors to reach our trading center and fisheries at Celilo Falls and beyond.[4]

Pre-Treaty, Governor Stevens knew our ancestors were the linchpin to a trading confederacy. They knew our ancestors controlled the Central Plateau and traveled regularly to the Willamette Valley, to the Puget Sound, and to the Plains. They knew that travel for the purpose of trade was crucial to our ancestors' existence. *See Yakama Indian Nation*, 955 F. Supp. at

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[4] Present day, Cougar Den, Inc. uses this same trade route to transport goods to market via public highway by traveling to and from the Yakama Reservation through Satus Pass and across the Columbia River.

1238-1240, 1263. This was the context within which the Yakama Treaty was negotiated.

C. The Treaty Signatories Understood Article III To Reserve The Right To Continue Traveling And Trading As They Had Before The Treaty.

The historical record establishes that prior to the Yakama Treaty, the United States was aware of the importance of travel and trade to our ancestors. The United States also knew our ancestors would not negotiate without preserving these rights. Armed with this knowledge, Governor Stevens and General Palmer called our ancestors to join the Walla Walla Council in 1855. There was, however, no enthusiasm for the Council among Kamaiakun, Skloom, Owhi, Te-cole-kun, Lahoom, Koo-lat-toose, Sch-noo-a, Me-ni-nock, Shee-ah-cotte, Sla-kish, Elit Palmer, Tuckquille, Wish-och-knmpits, Ka-loo-as and other head chiefs, chiefs, head-men, and delegates of the Yakama, Palouse, Pisquouse, Wenatshapam, Klikatat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks, Oche-chotes, Kah-milt-pah, and Se-ap-cat Nations. App. 2, 13. Their attendance had been solicited under threat of genocide. Earlier in 1854, Governor Stevens had met with Ow-hi and asked that he deliver a message to the Native leaders indicating that a council be gathered and that the soldiers would come and "wipe them off the face of the earth . . . " if they refused to negotiate a treaty. *See* A.J. Splawn, *Ka-mi-akin, the last hero of the Yakimas* 31 (1917).

These threats continued during the Treaty negotiations. When Kamaiakun told Governor Stevens that he would not grant land to the United States and that he was heading home, Governor Stevens held the Treaty up and exclaimed that if the tribal leaders did not sign, "you will walk in blood knee deep." *See* Andrew Pambrun, *Sixty Years on the Frontier in the Pacific Northwest* 95 (1978) (relating the conversation between Governor Stevens and our ancestors at the Walla Walla Council from his perspective as Governor Stevens' interpreter). Given this 'incentive', our ancestors signed knowing that refusal would result in death.

Further, the Treaty negotiations took place entirely through interpreters using the Chinook jargon, which consisted of only 300 words developed for commercial interactions rather than being the primary language of any Native Nation. *Fishing Vessel*, 443 U.S. at 667 n.10. Many of the United States' representations did not have an adequate translation in our language. *Id.*; *see also United States v. Washington*, 384 F. Supp. at 356 (observing that Chinook jargon was inadequate to express the legal effects of the treaties, and that many Indians did not understand Chinook jargon).

Despite these challenges, the verbal promises made by the United States' negotiators were captured in Treaty Minutes taken by the United States. App. B 15-117. These Minutes and the historical record must be relied upon when determining our Treaty's meaning. *See Mille Lacs Band*, 526 U.S. at 196 (courts must "look beyond the written words to the larger context

that frames the Treaty, including the history of the treaty, the negotiations, and the practical construction adopted by the parties."); *see also Fishing Vessel*, 443 U.S. at 676 (holding that in three prior cases concerning the Yakama Treaty, this Court construed the rights reserved by Article III "not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by [our ancestors]").

The United States made numerous promises and representations to our ancestors during the Walla Walla Council. The United States promised that if our ancestors agreed to cede certain rights in over 10,000,000 acres of land and move to the Yakama Reservation—an area just one-tenth the size of the lands ceded—they would reserve forever the right to exercise their traditional way of life, including their traditional system of trade and exchange. As captured in the Treaty Minutes, the subject of travel and trade was an issue "of significant importance to both [our ancestors] and Governor Stevens." *See Yakama Indian Nation*, 955 F. Supp. at 1266.

At no less than five (5) places in the Treaty Minutes, the United States promised our ancestors that they would be allowed unrestricted travel over the roads to support their trading endeavors. Governor Stevens supported the Reservation's location based on its proximity to the 'great road', stating **"[y]ou will be near the great road and can take your horses and your cattle down the river and to the Sound to market."** App. B 64 (emphasis in original). Twice

more he emphasized the unrestricted right to use the highways for trading: "**[y]ou will be allowed to go on the roads to take your things to market, your horses and cattle**," and also that our ancestors, "**shall have the same liberties outside the Reservation to pasture animals on land not occupied by whites, to kill game, to get berries and to go on the roads to market**." App. B 68, 71 (emphasis in original).

Governor Stevens' assurances of unrestricted use of roads for the express purpose of trade were supported by General Palmer, who explained "[m]y Brother has stated that you will be permitted to travel the roads outside the Reservation" and, "[n]ow as we give you the privilege of traveling over roads, we want the privilege of making and traveling roads through your country, but whatever roads we make through your country will not be for injury." App. B 73, 74.

These representations were understood by our ancestors as more than mere platitudes, puffery, or aspirational statements. Our ancestors "relied on these promises and they formed a material and basic part of the treaty and [our ancestors'] understanding of the meaning of the treaty." *United States v. Washington*, 384 F. Supp. at 381. "As the Treaty minutes reflect, [Governor] Stevens unconditionally guaranteed that [our ancestors] would have the right to take their . . . goods to market," and the "statements regarding [our ancestors'] use of the public highways to take their goods to market clearly and without ambiguity promised [our ancestors] the use of public highways without

restriction for future trading endeavors." *Yakama Indian Nation*, 955 F. Supp. at 1253, 1265.

The Treaty language, the Treaty Minutes, and the historical record are graphic and consistent. They tell only one story—the United States received the cession of certain rights in over 10,000,000 acres of land, and in return our ancestors reserved a guaranty of unrestricted off-Reservation activities, including the use of the public highways without restriction to preserve and continue our ancestors' traditional system of trade and exchange.

II. THE YAKAMA NATION'S RIGHT TO TRAVEL INCLUDES THE RIGHT TO TRADE FREE FROM ENCUMBRANCE BY THE STATE.

It is a well-established canon of treaty construction that the Yakama Treaty's provisions must be interpreted "in the sense in which they would naturally be understood by [our ancestors]." *Fishing Vessel*, 443 U.S. at 676; *see also Tulee v. United States*, 315 U.S. 681, 684-685 (1942) (stating "[i]t is our responsibility to see that the terms of the treaty are carried out . . . in accordance with the meaning they were understood to have by the tribal representatives at the council"). The Ninth Circuit applied this analytical framework to our right to travel and trade in *Cree v. Waterbury*, 78 F.3d 1400 (9th Cir. 1996), which addressed the Yakama Treaty's preemptive effect on state commercial licensing regulations and fees. In holding that the district court failed to develop the factual record necessary to

determine "what [our ancestors] understood their right to use government-built highways to encompass," the Ninth Circuit expressly rejected the State's argument that we "bear the burden of proving a [state] tax exemption in the Treaty." *Id.* at 1403. The Ninth Circuit remanded with instructions that the district court "undertake a factual inquiry into the intent and understanding of the parties at the time the Treaty was signed to determine the meaning of the [Article III] highway right." *Id.* at 1404.

On remand, United States District Court Judge Alan McDonald undertook a *Fishing Vessel* treaty analysis and carefully parsed out the meaning of Article III's public highway clause. *Yakama Indian Nation*, 955 F. Supp. 1229. Judge McDonald concluded that, "the language of the Treaty, when viewed in historical context as [our ancestors] would have understood it, unambiguously reserves to [our people] the right to travel the public highways without restriction for purposes of hauling goods to market." *Id.* at 1248. He ruled that the Treaty "precludes the state from imposing licensing and permitting fees and registration requirements indirectly exacting such fees on [our] trucks when hauling tribal goods to market." *Id.* at 1249.

Washington appealed to the Ninth Circuit, who again relied on *Fishing Vessel* to affirm the district court's findings, conclusions, and grant of summary judgment in favor of our People. *Cree* II, 157 F.3d 762. The Ninth Circuit praised the district court's "careful inquiry into the intentions of the parties at Walla Walla," *Id.* at 774, observing that the "district court

eloquently set forth its findings that travel was of great importance to [our ancestors], that they enjoyed free access to travel routes for trade and other purposes at Treaty time, and that they understood the Treaty to grant them valuable rights that would permit them to continue in their ways." *Id.* at 769. Consistent with this Court's canons of treaty construction, the Ninth Circuit affirmed that the Article III public highway clause "must be interpreted to guarantee [our people] the right to transport goods to market over public highways without payment of fees for that use." *Id.*

A. Article III's Public Highway Clause Reserved The Yakama Nation's Right To Conduct Economic Activities Beyond The Reservation Boundaries.

Judge McDonald interpreted our right to travel and trade beyond reservation boundaries without restriction or condition attached by looking at both the Treaty's written text and the larger historical context of the Treaty negotiations. *Yakama Indian Nation*, 955 F. Supp. 1229. In doing so, the district court found that prior to the Treaty's signing, the historical record "unquestionably depicts a tribal culture whose manner of existence was ultimately dependent on [our ancestors'] ability to travel," that "far-reaching travel was an intrinsic ingredient in virtually every aspect of [our ancestors'] culture," that "[t]ravel was significant for many reasons, including trade," and that our ancestors "had a well-known reputation for being 'inveterate

traders'" with extensive trading practices exercised "throughout the Northwest and beyond." *Id.* at 1238.

Judge McDonald's review of the historical record illuminated the parties' express intention to preserve our ancestors' traditional system of trade and "modern economic enterprise" that was "secured unconditionally and without restriction. . . ." *Id.* at 1249, 1253. Thus, the district court found that the United States' "statements regarding [our ancestors'] use of the public highways to take their goods to market clearly and without ambiguity promised [our ancestors] the use of public highways without restriction for future trading endeavors." *Id.* at 1265.

Judge McDonald also rejected the State's argument that Article III, paragraph 1's 'in common with' language meant we were to be placed on equal footing with non-Indians and subject to the same restrictions. *Id.* at 1246-1256. Rather, Judge McDonald held that, "it seems clear that [our ancestors] understood the term 'in common with' as common usage among Indians and non-Indians with no restriction placed upon tribal members," and that the historical record supported finding that the term 'in common with' was understood by both parties to mean that our ancestors:

> "retained the *right* to travel the public roads, on and off-reservation, and that right would be exercised 'in common with' non-Indians. In other words, both [our ancestors] and non-Indians would use the public roads simultaneously."

Id. at 1247. Based upon the evidence before it, the district court found that our ancestors understood that Article III, paragraph 1's 'in common with' language would not limit or restrict our right to travel on public highways for purposes of trade.

Given this extensive factual review, the Ninth Circuit affirmed the district court and held that Article III, paragraph 1 of the Yakama Treaty "guarantee[s] the Yakamas the right to transport goods to market over public highways" outside the Reservation's boundaries, free from "payment of fees for that use." *Cree* II, 157 F.3d at 769. The Ninth Circuit in *Cree* II declined the State's invitation to interpret the 'in common with' language found in Article III, paragraph 1, "against the grain of Supreme Court precedent and in contravention of the district court's factual inquiry into the meaning of the ['in common with'] language in the context of the Treaty." *Id.* at 771-772.

The State is precluded from challenging this settled law. Once a court has decided an issue of fact or law necessary to its judgment, that decision precludes relitigation of the issue in a suit on a different cause of action involving a party to the first case. *Montana v. United States*, 440 U.S. 147, 153 (1979). The issue of whether Article III, paragraph 1 secures our right to travel and preserves our traditional system of trade and exchange beyond our Reservation's boundaries was decided in proceedings identical to that which the State seeks to relitigate here. The Ninth Circuit's opinion and order in *Cree* II is a final judgment on the merits, and the parties to that action are the same parties

or are in privity with the parties here. Issues of fact and law affirmed by *Cree* II are "forever settled as between the parties," and the State is precluded from obtaining such relief in this action. *See B & B Hardware, Inc. v. Hargis Indus., Inc.*, ___ U.S. ___ (2015) (quoting *Baldwin v. Iowa State Traveling Men's Ass'n*, 283 U.S. 522, 525 (1931)). Moreover, the State did not appeal the decision below that those findings have preclusive effect in this case.

B. *In Common With* Was Never Understood By The Yakamas To Limit Our Rights.

The historical findings of *Yakima Indian Nation* (and in turn, *Cree* II) are consistent with this Court's precedent. On the surface, the language of the Yakama Treaty seems unequivocal. Article III, paragraph 1 secures our right to "travel upon all public highways." 12 Stat. at 952-953, App. A 6. This right, however, contains an important qualification. It is a "right . . . " reserved "in common with citizens of the United States . . . " *Id.* The definition of 'in common with' has a long history before this Court. Persons and states who opposed the reservation of sovereign rights to our People have argued that the term 'in common with' meant that our Treaty reserved nothing more than the rights held by any other citizen. This Court—in no fewer than four previous occasions—rejected that argument, finding that Article III reserved to us specific and important rights. In each of these opinions, this Court emphasized the importance of applying the canons of treaty

construction to interpret our Treaty as our ancestors understood it at the Walla Walla Council in 1855.

This Court's first Yakama Treaty-related opinion, *United States v. Winans*, 198 U.S. 371 (1905), was decided fewer than fifty years after the Senate ratified our Treaty. This Court held that judicial interpretation of the rights reserved in the Yakama Treaty required consideration of evidence beyond the Treaty language itself:

> [The district court] decided that the Indians acquired no rights but what any inhabitant of the territory or state would have. Indeed, acquired no rights but such as they would have without the treaty. **This is certainly an impotent outcome to negotiations and a convention which seemed to promise more, and give the word of the nation for more.** And we have said we will construe a treaty with the Indians as "that unlettered people" understood it, and "as justice and reason demand, in all cases where power is exerted by the strong over those to whom they owe care and protection," and counterpoise the inequality "by the superior justice which looks only to the substance of the right, without regard to technical rules." How the treaty in question was understood may be gathered from the circumstances.

Id. at 380-381 (citations omitted) (emphasis added). In *Winans*, this Court found that Article III's "right of taking fish in common with citizens . . . " language, as understood by our ancestors, encompassed broader rights

than those held by ordinary citizens, including perpetual easements over private lands for the exercise of such rights despite the Treaty's silence on that issue. 198 U.S. at 384.

In *Seufert Bros. Co. v. United States*, 249 U.S. 194 (1919), this Court held that Article III's "right of taking fish in common with citizens . . . " language imposed the same easement on lands in Oregon, even though Oregon was outside the boundaries of the lands ceded by our ancestors. The Court reasoned that efforts "[t]o restrain [us] to fishing on the [Washington] side of the shore of the [Columbia] river would greatly restrict the comprehensive language of the treaty, . . . and would substitute for the natural meaning of the expression used, . . . the artificial meaning which might be given to it by the law and by lawyers." *Id.* at 199.

In 1942, this Court determined that Article III's "right of taking fish in common with citizens . . . " language specifically included the right to do so without the payment of fees to the State for the exercise of that reserved right. *Tulee*, 315 U.S. 681. Justice Hugo Black wrote for a unanimous Court and determined that such a fee, even though applied in a non-discriminatory manner, "acts upon [us] as a charge for exercising the very right their ancestors intended to reserve . . . [and] that such exaction of fees as a prerequisite to the enjoyment [of our Treaty-reserved rights] cannot be reconciled with a fair construction of the treaty." *Id.* at 685.

Again in 1979, this Court interpreted Article III as guaranteeing more than the same access to the resources as held by all citizens. In *Fishing Vessel*, this Court confirmed:

> It is true that the words "in common with" may be read either as nothing more than a guarantee that individual Indians would have the same right as individual non-Indians or as securing an interest in the fish runs themselves. . . . **But we think greater importance should be given to the Indians' likely understanding of the other words in the treaty** and especially the reference to the "right of taking fish"—a right that had no special meaning at common law but that must have had obvious significance to the tribes relinquishing a portion of their pre-existing rights to the United States in return for this promise. . . .
>
> This interpretation is confirmed by additional language in the treaties. The fishing clause speaks of "securing" certain fishing rights, a term the Court has previously interpreted as synonymous with "reserving" rights previously exercised.

443 U.S. at 677-679 (citations omitted) (emphasis added).

It is therefore clear from the record and the precedent of this and other courts, that the 'in common with' language employed in Article III, paragraph 1 of the Yakama Treaty serves as a reservation of our right to travel and trade beyond the Reservation's exterior

boundaries just as our ancestors did prior to the Treaty, and free from State-imposed conditions or restrictions.

C. The Treaty Preempts Non-Discriminatory *State* Regulations That Conflict With The Treaty And Generate Revenue For The State.

The relationship between federal and state governments, so far as it concerns Native Nations and peoples, is controlled by the Supremacy Clause and its concept of preemption. The Supremacy Clause provides that, "Laws of the United States . . . and all Treaties . . . made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. art. VI, § 2.

No distinction is drawn between treaties made with Native Nations and those made with foreign nations. *United States v. 43 Gallons of Whiskey*, 93 U.S. 188, 197 (1876); *Worcester v. Georgia*, 31 U.S. at 559. Thus, in the area of federal Indian law, the Supremacy Clause has been consistently and forcefully applied. *Williams v. Lee*, 358 U.S. 217 (1959). Appropriately, when a treaty and state law conflict, the treaty controls and the state law must yield. *Zschernig v. Miller*, 389 U.S. 429, 440-441 (1968); *Clark v. Allen*, 331 U.S. 503, 508 (1947); *Missouri v. Holland*, 252 U.S. 416, 433-435 (1920).

As applied, the State may not enforce its regulations against Cougar Den when they conflict with rights reserved under Article III of the Yakama Treaty, even when, as alleged here, the State law is non-discriminatory and directed at off-Reservation activity. Pet. Br. 16. In *Tulee*, a Yakama fisherman contended that a state statute compelling him to obtain a license in order to fish off-Reservation violated Article III. 315 U.S. 681. This Court held that the imposition of licensing fees was impermissible because it acts as a charge for exercising the very right our ancestors intended to reserve. *Id.* at 684-685. Following this principle, the district court in *Yakama Indian Nation* likewise held that the State's non-discriminatory road use regulations (license and permitting fees) meant for preservation and maintenance of the roads do not overcome our Treaty-reserved Article III rights when those regulations, just as in *Tulee*, are designed to generate revenue to support the State government and its institutions. 955 F. Supp. at 1255.

In light of *Tulee* and *Yakama Indian Nation*, the Washington Supreme Court held that the Yakama Treaty is a federal law that preempts laws of the State that place a condition on our use of public highways affecting our Article III right to transport goods to market without restriction. *Cougar Den*, 188 Wash. 2d at 68-69. It found such restriction to be more than simple regulation of a Treaty-protected activity, with the licensing requirement here serving as a vehicle for tax collection and therefore not falling under any regulatory exception. *Id.* at 67.

Tulee and *Yakama Indian Nation* make clear that while our people may be expected to accommodate the State when exercising our Treaty-reserved rights, or even acquiesce to some types of regulation when the public good is served, accommodation does not mean subsidization. Under *Tulee*'s precedent, we cannot be compelled to pay the State to exercise the very rights our ancestors reserved by Treaty.

CONCLUSION

The facts before this Court concerning the Treaty negotiations are clear as to what the United States promised our ancestors. Article III, paragraph 1 of the Yakama Treaty reserved our tradition of extensive travel and trade without economic restrictions. Our ancestors' understanding is consistent with the unequivocal representations made by the United States at the Walla Walla Council in 1855.

As implemented, the State's fuel importation tax encumbers and imposes conditions on an express Treaty-protected activity—the transportation of goods to market. The State's effort to fine Cougar Den for traveling in noncompliance with the conditions of its importation regulation must yield to the promises made to our ancestors in 1855. The State wishes Governor Stevens had negotiated a more limited Treaty or, better yet, none at all. But he did not, and the commitments the United States made in 1855 are commitments that survive into the 21st century.

The Yakama Nation respectfully requests that this Court affirm the Washington State Supreme Court's holding.

Respectfully submitted,

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APPENDIX A

12 Stat. 951
(TREATY)

TREATY WITH THE YAKAMAS, 1855.

June 9, 1855.

WHEREAS a treaty was made and concluded at the Treaty Ground, Camp Stevens, Walla-Walla Valley, on the ninth day of June, in the year one thousand eighth hundred and fifty-five, between Isaac I. Stevens, governor, and superintendent of Indian affairs, for the Territory of Washington, on the part of the United States, and the hereunder named head chiefs, chiefs, headmen, and delegates of the Yakama, Palouse, Pisquouse, Wenatshapam, Klikatat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks, Oche-chotes, Kah-milt-pah, and Se-ap-cat, confederate tribes and bands of Indians, occupying lands lying in Washington Territory, who, for the purposes of this treaty are to be considered as one nation, under the name of "Yakama," with Kamaiakun as its head chief, on behalf of and acting for said bandes and tribes, and being duly authorized thereto by them; which treaty is in the words and figures following, to wit:

Articles of agreement and convention made and concluded at the treaty-ground, Camp Stevens, Walla-Walla Valley, this ninth day of June, in the year one thousand eight hundred and fifty-five, by and between Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the undersigned head chiefs, chiefs, headmen, and delegates of the Yakama, Palouse, Pisquouse, Wenatshapam, Klikatat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks, Oche-chotes, Kah-milt-pah, and Se-ap-cat, confederated tribes and bands of Indians, occupying lands hereinafter bounded and described and lying in Washington Territory, who for the purposes of this treaty are to be considered as one nation, under the name of "Yakama," with Kamaiakun as its head chief, on behalf of and acting for said tribes and bands, and being duly authorized thereto by them.

ARTICLE 1

The aforesaid confederated tribes and bands of Indians hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the lands and country occupied and claimed by them, and bounded and described as follows, to wit:

Commencing at Mount Ranier, thence northerly along the main ridge of the Cascade Mountains to the point where the northern tributaries of Lake Che-lan and the southern tributaries of the Methow River have their rise; thence southeasterly on the divide between the waters of Lake Che-lan and the Methow River to the Columbia River; thence, crossing the Columbia on a true east course, to a point whose longitude is one hundred and nineteen degrees and ten minutes, (119 degrees 10',) which two latter lines separate the above confederated tribes and bands from the Oakinakane tribe of Indians; thence in a true south course to the forty-seventh (47 degrees) parallel of latitude; thence east on said parallel to the main Palouse River, which two latter lines of boundary separate the above confederated tribes and bands from the Spokanes; thence down the Palouse River to its junction with the Moh-hah-ne-she, or southern tributary of the same; thence in a southesterly direction, to the Snake River, at the mouth of the Tucannon River, separating the above confederated tribes from the Nez Perce tribe of Indians; thence down the Snake River to its junction with the Columbia River; thence up the Columbia River to the "White Banks" below the Priest's Rapids; thence westerly to a lake called "LaLac;" thence southerly to a

point on the Yakama River called Toh-mah-luke; thence, in a southwesterly direction, to the Columbia River, at the western extremity of the "Big Island," between the mouths of the Umatilla River and Butler Creek; all which latter boundaries separate the above confederated tribes and bands from the Walla-Walla, Cayuse, and Umatilla tribes and bands of Indians; thence down the Columbia River to midway between the mouths of White Salmon and Wind Rivers; thence along the divide between said rivers to the main ridge of the Cascade Mountains; and thence along said ridge to the place of beginning.

ARTICLE 2

There is, however, reserved, from the lands above ceded for the use and occupation of the aforesaid confederated tribes and bands of Indians, the tract of land included within the following boundaries, to wit: Commencing on the Yakama River, at the mouth of the Attah-nam River; thence westerly along said Attah-nam River to the forks; thence along the southern tributary to the Cascade Mountains; thence southerly along the main ridge of said mountains, passing south and east of Mount Adams, to the spur whence flows the waters of the Klickatat and Pisco Rivers; thence down said spur to the divide between the waters of said rivers; thence along said divide to the divide separating the waters of the Satass River from those flowing into the Columbia River; thence along said divide to the main Yakama, eight miles below the mouth of the Satass River; and thence up the Yakama River to the place of beginning.

All which tract shall be set apart and, so far as necessary, surveyed and marked out, for the exclusive use and benefit of said confederated tribes and bands of Indians, as an Indian reservation; nor shall any white man, excepting those in the employment of the Indian Department, be permitted to reside upon the said reservation without permission of the tribe and the superintendent and agent. And the said confederated tribes and bands agree to remove to, and settle upon, the same, within one year after the ratification of this treaty. In the mean time it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States; and upon any ground claimed or occupied, if with the permission of the owner or claimant.

Guaranteeing, however, the right to all citizens of the United States to enter upon and occupy as settlers any lands not actually occupied and cultivated by said Indians at this time, and not included in the reservation above named.

And provided, That any substantial improvements heretofore made by any Indian, such as fields enclosed and cultivated, and houses erected upon the lands hereby ceded, and which he may be compelled to abandon in consequence of this treaty, shall be valued, under the direction of the President of the United States, and payment made therefor in money; or improvements of an equal value made for said Indian upon the reservation. And no Indian will be required to abandon the improvements aforesaid, now occupied by him, until their value in money, or improvements of an equal value shall be furnished him as aforesaid.

ARTICLE 3

And provided, That, if necessary for the public convenience, roads may be run through the said reservation; and on the other hand, the right of way, with free access from the same to the nearest public highway, is secured to them; as also the right, in common with citizens of the United States, to travel upon all public highways.

The exclusive right of taking fish in all the streams, where running through or bordering said reservation, is further secured to said confederated tribes and bands of Indians, as also the right of taking fish at all usual and accustomed places, in common with the citizens of the Territory, and of erecting temporary buildings for curing them; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.

ARTICLE 4

In consideration of the above cession, the United States agree to pay to the said confederated tribes and bands of Indians, in addition to the goods and provisions distributed to them at the time of signing this treaty, the sum of two hundred thousand dollars, in the following manner, that is to say: Sixty thousand dollars, to be expended under the direction of the President of the United States, the first year after the ratification of this treaty, in providing for their removal to the reservation, breaking up and fencing farms, building houses for them, supplying them with provisions and a suitable outfit, and for such other objects as he may deem necessary, and the remainder in annuities, as follows: For the first five years after the ratification of the treaty, ten thousand dollars each year, commencing September first, 1856; for the next five years, eight thousand dollars each year; for the next five years, six thousand dollars per year; and for the next five years, four thousand dollars per year.

All which sums of money shall be applied to the use and benefit of said Indians, under the direction of the President of the United States, who may from time to time determine, at his discretion, upon what beneficial objects to expend the same for them. And the superintendent of Indian affairs, or other proper officer, shall each year inform the President of the wishes of the Indians in relation thereto.

ARTICLE 5

The United States further agree to establish at suitable points within said reservation, within one year after the ratification hereof, two schools, erecting the necessary buildings, keeping them in repair, and providing them with furniture, books, and stationery, one of which shall be an agricultural and industrial school, to be located at the agency, and to be free to the children of the said confederated tribes and bands of Indians, and to employ one superintendent of teaching and two teachers; to build two blacksmith's shops, to one of which shall be attached a tin-shop, and to the other a gunsmith's shop; one carpenter's shop, one wagon and plough maker's shop, and to keep the same in repair and furnished with the necessary tools; to employ one superintendent of farming and two farmers, two blacksmiths, one tinner, one gunsmith, one carpenter, one wagon and plough maker, for the instruction of the Indians in trades and to assist them in the same; to erect one saw-mill and one flouring-mill, keeping the same in repair and furnished with the necessary tools and fixtures; to erect a hospital, keeping the same in repair and provided with the necessary medicines and furniture, and to employ a physician; and to erect, keep in repair, and provided with the necessary furniture, the building required for the accommodation of the said employees. The said buildings and establishments to be maintained and kept in repair as aforesaid, and the employees to be kept in service for the period of twenty years.

And in view of the fact that the head chief of the said confederated tribes and bands of Indians is expected, and will be called upon to perform many services of a public character, occupying much of his time, the United States further agree to pay to the said confederated tribes and bands of Indians five hundred dollars per year, for the term of twenty years after the ratification hereof, as a salary for such person as the said confederated tribes and bands of Indians may select to be their head chief, to build for him at a suitable point on the reservation a comfortable house, and properly furnish the same, and to plough and fence ten acres of land. The said salary to be paid to, and the said house to be occupied by, such head chief so long as he may continue to hold that office.

And it is distinctly understood and agreed that at the time of the conclusion of this treaty Kamaiakun is the duly elected and authorized[8] head chief of the confederated tribes and bands aforesaid, styled the Yakama Nation, and is recognized as such by them and by the commissioners on the part of the United States holding this treaty; and all the expenditures and expenses contemplated in this article of this treaty shall be defrayed by the United States, and shall not be deducted from the annuities agreed to be paid to said confederated tribes and band of Indians. Nor shall the cost of transporting the goods for the annuity payments be a charge upon the annuities, but shall be defrayed by the United States.

ARTICLE 6

The President may, from time to time, at his discretion, cause the whole or such portions of such reservation as he may think proper, to be surveyed into lots, and assign the same to such individuals or families of the said confederated tribes and bands of Indians as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

ARTICLE 7

The annuities of the aforesaid confederated tribes and bands of Indians shall not be taken to pay the debts of individuals.

ARTICLE 8

The aforesaid confederated tribes and bands of Indians acknowledge their dependence upon the Government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations upon the property of such citizens.

And should any one or more of them violate this pledge, and the fact be satisfactorily proved before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the Government out of the annuities.

Nor will they make war upon any other tribe, except in self-defence, but will submit all matters of difference between them and other Indians to the Government of the United States or its agent for decision, and abide thereby. And if any of the said Indians commit depredations on any other Indians within the Territory of Washington or Oregon, the same rule shall prevail as that provided in this article in case of depredations against citizens. And the said confederated tribes and bands of Indians agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

ARTICLE 9

The said confederated tribes and bands of Indians desire to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same, and, therefore, it is provided that any Indian belonging to said confederated tribes and bands of Indians, who is guilty of bringing liquor into said reservation, or who drinks liquor, may have his or her annuities withheld from him or her for such time as the President may determine.

ARTICLE 10

And provided, That there is also reserved and set apart from the lands ceded by this treaty, for the use and benefit of the aforesaid confederated tribes and bands, a tract of land not exceeding in quantity one township of six miles square, situated at the forks of the Pisquouse or Wenatshapam River, and known as the "Wenatshapam Fishery," which said reservation shall be surveyed and marked out whenever the President may direct, and be subject to the same provisions and restrictions as other Indian reservations.

ARTICLE 11

This treaty shall be obligatory upon the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, and the undersigned head chief, chiefs, headmen, and delegates of the aforesaid confederated tribes and bands of Indians, have hereunto set their hands and seals, at the place and on the day and year hereinbefore written.

ISAAC I. STEVENS,

Governor and Superintendent. (L.S.)

Kamaiakun, his x mark. (L.S.)

Skloom, his x mark. (L.S.)

Owhi, his x mark. (L.S.)

Te-cole-kun, his x mark. (L.S.)

La-hoom, his x mark. (L.S.)

Me-ni-nock, his x mark. (L.S.)

Elit Palmer, his x mark. (L.S.)

Wish-och-kmpits, his x mark. (L.S.)

Koo-lat-toose, his x mark. (L.S.)

Shee-ah-cotte, his x mark. (L.S.)

Tuck-quille, his x mark. (L.S.)

Ka-loo-as, his x mark. (L.S.)

Scha-noo-a, his x mark. (L.S.)

Sla-kish, his x mark. (L.S.)

Signed and sealed in the presence of - -

James Doty, secretary of treaties,

Mie. Cles. Pandosy, O. M. T.,

Wm. C. McKay,

W. H. Tappan, sub Indian agent, W. T.,

C. Chirouse, O. M. T.,

Patrick McKenzie, interpreter,

A. D. Pamburn, interpreter,

Joel Palmer, superintendent Indian affairs, O. T.,

W. D. Biglow,

A. D. Pamburn, interpreter.

APPENDIX B

Record of the official proceedings at the Council, held at the Council Ground in the Walla Walla Valley, with the Yakama Nation of Indians, and which resulted in the conclusion of a Treaty on the 9th day of June 1855.[1]

[1] Record of the official proceedings at the Council in the Walla Walla Valley, in U.S. Dep't of the Interior, *Report on Source, Nature, and Extent of the Fishing, Hunting and Miscellaneous Related Rights of Certain Indian Tribes in Washington and Oregon* (1942) (available at https://www.sos.wa.gov/library/publications_detail.aspx?p=116).

PROCEEDINGS AT INDIAN TREATIES IN WASHINGTON TERRITORY

EAST OF THE CASCADE MOUNTAINS

Programs of operations at the Walla Walla Council decided upon by the Commissioners Gov. Isac I. Stevens and Superintendent Joel Palmer, May 22nd A. D. 1855.

Present--Indians common to both Territories, Oregon and Washington, viz. Nes Perces, Cayuse and Walla Wallas. Tribes in Oregon from the western boundary of the Snake Tribe to the Cascades of the Columbia. Tribes in Washington from the Bitter Root to the Cascades, except the Spokanes, Couer d'alenes, Colvilles and Pend D'Oreilles.

Gov. Stevens and Gen'l Palmer Superintendent of Washington and Oregon to act jointly for the Nes Perses, Walla Wallas and Cayuse common to the two Territories. To agree upon the terms of treaty. To sign jointly Each acting for the Indians the above tribes in his own jurisdiction.

Gen'l Palmer sole commissioner for the Oregon Indians proper present at the council.

Gov. Stevens, sole commissioner for the Washington Territory Indians proper present at the council.

Gov. Stevens to preside at the council.

The proceedings to be carefully recorded for the Tribes common to the two Territories seperately by the Secty of Gov. Stevens and the Secty of Gen'l Palmer.

The proceedings to be carefully recorded for the Tribes common to the two Territories seperately by the Secty of Gov. Stevens and the Secty of Gen'l Palmer.

The two records to be carefully compared and certified jointly by the commissioners.

Each commissioner to appoint an agent and commissary.

Gov. Stevens for the Washington Nes Perses, Cayuses and Walla Wallas. Gen'l Palmer for the Oregon Nes Perses, Cayuses and Walla Wallas. Goods and provisions to be distributed to the Nes Perses, Cayuses and Walla Wallas, by the Superintendents in proportion to the Indians under the jurisdiction of each.

OFFICERS OF THE JOINT TREATY

Gov. Stevens

Gen'l Palmer - Commissioners

James Doty Sect'y for Washington Territory

Wm. McCoy " " Oregon "

H. A. Crosbie Commissary for Washington Territory

C. Olney " " Oregon "

Agent R. R. Thompson, in charge of Oregon Nes Perses,

Cayuses and Walla Wallas.

Wm. Craig Interpreter, Washington Territory

N. Raymond " " "

Leaufoher interpreter, Oregon Territory

John Flette "

Censuses of the Nes Perses, Cayuses and Walla Wallas.

	Washington Ter'ty	Oregon Ter'ty	Total
Nes Perses	1400	400	1800
Cayuses	150	350	500
Walla Wallas including Utillas	600	200	800
	2150	950	3100

This census to be revised on the Indians reaching the ground.

A public table for the prominent cheifs under charge of agents Landsdale, Thompson and Bolon.

Gov. Stevens details Palmer and F. Genitto.

Sup't Palmer also details one or two men.

Coll. Crosbie to take personal charge of issues for public table, of issues of provisions to Indian tribes, and goods distributed. Provisions and goods to be turned over to the agents, and issued under their direction.

May 28th, Monday.

Agent Bolon with an interpreter went to meet the Yakamas who are supposed to be near at hand, and returned at 10 a.m. having seen Cam-i-ah-kum and also the Chief Pee-o-pee-mox-a-mox.

The latter had said to Mr. Bolon, "that someone had informed him that the cheifs and others in the Commissioners camp had said that he was unfriendly to the whites. That his heart was with the Cayuses whose hearts were bad. He was very sorry to hear this. He had always been friendly to the whites and was so now. He should go today to see the Commissioners, and ask why such things had been said of him."

The Commissioners and Sec'ty Doty visited the Lawyer at his lodge, as he was unable to walk without great difficulty. An old gun-shot wound received at the battle of Pierres Hole, having broken open again causing much pain.

The Lawyer explained a map of the Nes Perses country which he had drawn for Gov. Stevens. Several cheifs came in and suddenly U-u-sune-mal-e-can,/one of the cheifs/ said:

"The Cayuses wish us to go to their camp and hold a council with them and Pee-o-pee-mox-a-mox.

What have we to say to the Cayuses or Pee-pee-mox-a-mox? What are their hearts to us? Did we propose to hold a council with them or ask them for advise? Our hearts are Nes Perses hearts and we know them. We came here to hold a great council with the Great Cheif of the Americans, and we know the straight forward truth to pursue and are alone responsible for our actions. Three Cayuses came last night and spoke to Jim and two other head men urging them to come to a council at the Cayuse camp, to meet Pee-o-pee-mox-a-mox and Cam-i-ah-kum. He did not wish to go; they insisted; then I said to them: You had best say no more. His mind is made up.

What do you come here for and ask these cheifs to come to a council when to the Head Cheif and the rest you say nothing? Have we not told your messenger, yesterday, that our hearts are not Cayuse hearts? Go home! Our cheifs will not go. We have our own people to take care of they give us enough trouble, and we will not have the Cayuse troubles on our hands. This is my heart."

Lawyer opened a book containing in their own language the advice left to them by their Great Cheif Ellis, and read as follows: Ellis said,

"Whenever the Great Cheif of the Americans shall come into your country to give you laws, accept them!

The Walla Wallas heart is a Walla Wallas; a Cayuse heart is a Cayuse; so is a Yakamas heart a Yakamas; a Nes Perses heart is a Nes Perses heart; but they have all received the white law. They are all going straight, yes! While the Nes Perses are going straight, why should they turn aside to follow others who are going straight? Ellis, advice is to accept the white law. I have read it to you to show my heart."

The Commissioners were glad to hear what had been spoken. They know the Nes Perses were always friendly to the whites. Lewis & Clark had said this and all white men. The Commissioners were friendly to all Indians, and when they come together would tell them so, and show it by what they propose to do. They had no more to say now because when they spoke they wanted all the Indians to hear. The Commissioners then returned to camp.

At 11 a.m. Pee-o-pee-mox-a-mox, Cam-i-ah-cum, Owhi, Skloom and a number of Walla Wallas and Yakamas rode into camp, and having shaken hands in the most friendly manner, with the Commissioners and agents, seated themselves under the arbor in front of the Commissioners tent and indulged in a smoke; using their own tobacco exclusively although other was offered them.

Gov. Stevens then said to them: "My friends, we are glad to see you. We are glad to see all the Indians around here, and what we say is spoken to all the tribes. When you are ready to come into council, when the council is opened, we will speak to you of the important business for which you have been called together. We have near to our hearts the prosperity of

the Indians and the propositions to be made to you will prove this.

We shall endeavor to clearly explain the wishes of the Government, in order that you may fully understand them; as it is our desire you should.

If it is convenient to you we will suggest tomorrow at noon as the time for opening the council. We look upon you as friends, shall so speak to you; as one friend speaks to another, and wish you to reply as such.

Gen'l Palmer said: I am equally pleased with Gov. Stevens to see you. Many years ago I met you and considered you friends, and I look upon you as the same now, and hope our meeting will prove this to be true.

We come here to promote peace and happiness among you, leaving behind all that was bad, bringing only that which was good; thus we have but one heart. When you understand this then there will be no difficulty, but we will all work together for the best.

As all the cheifs are not here we will not speak of important business, but wait till all are present.

I wish to know if the time fixed by Gov. Stevens for opening the council is good, and if you will meet.

Pee-o-pee-mox-a-mox said: I want more than one interpreter at the Council, that we may know they translate truly.

Gen'l Palmer said: You may have any one who can comprehend what he is told to interpret, and who will suit you. We wish you to understand clearly what is

said. Will you designate a interpreter whom you have confidence in?

The Chief said: I do not wish my boys running around the camps of the whites as these young men do. (alluding to some young Nes Perses who were lounging about our camp feeling quite at home as they knew themselves to be among friends.)

Pee-o-pee-mox-a-mox said: We have rode over today merely to see the Commissioners.

Gov. Stevens said: Come and see us as our friends and guests. Cam-i-ah-kum knows that our people have been in his country, and eaten of his food. So of Pee-o-pee-mox-a-mox and the Nes Perses. We always give food to our friends when they visit us, you have been invited to come and you are welcome to whatever we have.

We have a public table at which we are glad to have all our friends sit, and share that which hospitality induces us to offer.

We have provided plenty of food, and have already given beef, corn, and potatoes to those on the ground. They were invited and we wish them to have plenty to eat.

I was glad to hear that my friend Skloom had been so kind to Mr. Tinkham one of my party who crossed the mountains. He was in want and Skloom gave him provisions and clothing.

The Cheifs then took their leave.

PROCEEDINGS AT THE COUNCIL HELD AT CAMP STEVENS

WALLA WALLA VALLEY, ON THE 29TH DAY OF MAY 1855

Gov. Stevens, Superintendent of Indian Affairs in Washington Territory, and Gen'l Joel palmer, Superintendent of Indian Affairs in Oregon Territory, with the following named cheifs, delegates and head men present at the Council, and representing their respective tribes and bands of Indians as below stated.

For the Nes Perses: Lawyer, Joseph, U-u-sune-mal-e-can, James, Timothy, Red Wolfe, Spotted Eagle, Three Feathers, Jason, Jacobs, Cow-pook, Is-coh-tim, Kay-kay-map, Tu-per-lan-its-a-kum, Billy, Toh-ton-mol-e-wot, The Snipe, Bold Eagle, and others.

For the Cayuses: The Young Cheif, Steachus, Camaspilo, and others.

For the Walla Wallas: Pee-o-pee-mox-a-mox

For the Yakamas: Cam-i-ah-kun, Ow-hi, Skloom, Kow-was-say-ic, Si-ry-was, Skin-pah.

For the Palouses: Kah-lat-toose

For the Spokanes: Gerry

For the Pisquose and Metows.

For the Oak-kin-a-kanes.

On May 29th, at 2:02 p.m. the Council opened. Present; the commissioners, officers of Treaties, the Indian agents, and some fifty citizens.

Besides the Indian cheifs already mentioned and some others, about 1800 Indians, Nes Perses, Cayuses, Walla Wallas, Yakamas, Dalles Indians and others on the Columbia above were assembled.

After the pipe had been smoked sometime, Gov. Stevens said:

"My Children: Before entering upon the council we must have good and faithful interpreters. We want men who will state truly and exactly all that is said; we want men that you know to be good men; men that you can trust; we want no others.

We propose as interpreters for the Nes Perses, William Craig, this man, (pointing to Mr. Craig) who has longer lived with you, also McDauphin and Delaware Jim.

For the Cayuses Mr. Pembrom and Mr. Olney.

For the Walla Wallas and Yakamas, John Whitford.

Thus for each language we propose to have two and three interpreters. Now I ask you, do you want others added to the number? Are you satisfied with these men? If you have any others you wish to propose, speak out, for we wish you to be satisfied.

Stachus, a Cayuse said: We know of no others whom we would wish. There may be some words hard for them to make us understand, but we think the arrangement good as it is.

Gov. Stevens said: When you cannot understand what we say to you, stop us and we will repeat it.

Each interpreter will now be sworn to be a faithful interpreter.

Gov. Stevens then administered to the interpreters the following oath.

You solemly swear in the presence of almighty God, that you will well and truly interpret to the best of your ability what may be said by the Commissioners for the United States holding this council on the one part; and the cheifs and head men of the tribes and bands of Indians here present on the other part. So help you God.

Gov. Stevens then said: My children, the interpreters have each taken a solemn oath on the presence of Almighty God, to be true and faithful interpreters. I will now read the form of the oath. (and it was read as above).

Gov. Stevens continued: My children; I have much to say to you; my brother here Gen'l Palmer will have much to say to you. We want you to listen and be comfortable at the same time. We want clear skies, we want the ground to be dry. We will meet tomorrow with a clear sun and the day before us. Then we will open the whole subject, and will see if our hearts and your hearts will not come together.

We have met as friends today, tomorrow we will meet as friends and then enter upon our business. I therefore adjourn the council till 10 o'clock a.m. tomorrow. The weather is rainy and bad, tomorrow we hope the skies will be clear and you will all be able to be present. Should it rain tomorrow we will meet when it clears up.

One word on another point, you have come here by our invitation and are our guests. I have entered, and so has my friend here Gen'l Palmer, many an Indian

lodge, and they always gave us to eat and drink. We therefore have brought provisions which we offer to you as a friend to a guest; and we therefore trust you will all feel free to receive the provisions we have brought to furnish you with as our guests.

I propose to the Walla Wallas, Cayuses and Yakamas that you take two oxen, drive to your camp and slaughter for yourselves.

Young Cheif replied: We have plenty of cattle, they are close to our camp. We have already killed three and have plenty of provisions.

Gov. Stevens said: We are much pleased to hear you are so well provided for, but we have plenty of provisions and you are welcome to them.

Young Cheif replied: We have plenty at present. We do not throw away your offer. If we want any we will come to you.

Gen'l Palmer (to the interpreter): Say to the Yakamas: You have come a long ways. You may not have provisions. If you want any we have them and you are welcome.

Young Cheif said: Cam-i-ah-kun is supplied at our camp.

Gov. Stevens said: There will be no more said today unless you wish to say something.

Young Cheif said: We have nothing to say today; the weather is bad, rainy. We do not throw away your offer; when we are done talking you will know our hearts. We will talk slow not all in one day. No snow falls at this

season of the year. There will be time for you to go anywhere you wish.

The council then broke up and nearly all the Indians returned to their camps.

Pee-o-pee-mox-a-mox and Cam-i-ah-kun dined with the Commissioners and remained in their tent sometime smoking in a friendly manner.

Timothy, a Nes Perses cheif acted as crier for his nation and he will also record in their language the full proceedings each day of the council and this will be preserved among the archives of the nation and handed down to future generations.

May 30th, Wednesday.

At 1 o'clock P.M. the Indians began to assemble and at 1 3/4 P.M. the Council opened. Present same as yesterday.

Gen'l Palmer Said, My friends. I am glad to see so may of you here today. Yesterday the council was organized and Interpreters sworn to repeat to you what we say. To day my brother in Council will speak to you the great desire that our Chief has to promote your good.

I know that our Great Chief has a good heart. I know that my brother Gov. Stevens has a good heart, that they both desire to do and act for your good. I hope then you have come here with good hearts to listen to what he has to say. We both come here to talk to you as men and not as boys; we throw behind us everything that is bad, and come to you with one heart: we hope you have done the same: You are men able to judge between good

and bad: and when my brother speaks to you, you can judge whether it be good or bad.

For the present I am done, and my brother will speak to you.

Gov. Stevens Said. My Children: The sky is clear, the ground is dry, my heart is glad to day. Our hearts are glad. You are men: You have families: You have the means to live.

You have all of you been friends to me and mine; Two years since I came along you; Two years only have I know you; I came from the great waters beyond the mountains, across the mountains, and you have all been friends to me.

The Nes Perses. Lawyer fed my men driven out of the mountains by the snow: the Cayuses and Walla Wallas received my men kindly; Pee-o-pee-mox-a-mox saw us in his country and gave us guides: the young cheif and his people had nothing but smiles and kindness for us; and yesterday Cam-i-ah-kun showed me a paper from Capt. McClelland saying that he furnished guides and welcomed them on their way.

So to the North and East; there sits a Flat Head and there a Coeur D'lane on the route across the Bitter Root; there are Poulouses and Colvilles and Spokanes away to the North; there are also men from both sides the river, from far down; all were kind, and I brought a message to all, from a tribe beyond the mountains: I have been among the Black-feet and have brought word that they would meet you in Council, and that war should cease.

I met you in the trail, I saw your people in the Buffalo country: I met your people on the road to the Buffalo country: My heart said peace in the Buffalo country, peace here; peace is here now: peace between yourselves, peace between us. So for your kindness to me I am your friend, and I came from the Great Father to be your friend.

The interpreters yesterday took a solemn oath to speak truly. I took a solemn oath and my brother took a solemn oath to be your friends.

The Great Father has learned much of you. He first learned of you from Lewis & Clarke; Pee-o-pee-mox-a-mox remembers Lewis & Clarke, the Lawyer does: they came through your country finding friends and meeting no enemies.

I went back to the Great Father last year to say that you had been good, you had been kind, he must do something for you. My brother wrote to the Great Father in like manner.

He told the Great Father, these men have farms; the Great Father said I want them to have more and larger farms; I told him you had cattle and horses; he answered that he wanted your horses and cattle to increase: I told him some of your grown people could read and write: He answered, I want all the grown people and all the children to learn to read and write; I told him that some of you were handy at trades; he answered, that he desired to give all who choose the means to learn those trades;

Why did the Great Father answer in this way? Why did he send my brother and myself here this day, to say this to you? Because you are his children; his red

children are as dear to him as his white children; his red children are men, they have hearts, they have sense; they feel kindness, they resent injury: we want kindness on the one side and kindness on the other: We want no injuries to resent.

The Great Father has been for many years caring for his red children across the mountains; there (pointing East) many treaties have been made. Many councils have been held; and there it had been found that with farms and with schools and with shops and with laws the red man could be protected.

Why do I say laws? What has made trouble between the white man and the red man? Did Lewis and Clark make trouble? they came from the Great Father; did I and mine make trouble? No! but the trouble had been made generally by bad white men and the Great Father knows it, hence laws.

The Great Father therefore desires to make arrangements so you can be protected from these bad white men, and so they can be punished for their misdeeds; and the Great Father expects you will treat his white children as he will make a law they shall treat you. We are now in council to see if we can arrange the terms which will carry this into effect.

Let us go back to old times across the mountains and see what was there done: the red man received the white man gladly; but after a while difficulties arose; the blood of the red man was spilled and the blood of the white man; there was cold; there was hunger; there was death. But a man came, William Penn, and said I will see if my white children and my red children cannot be friends, and they were friends: Wm Penn and

the Indians came together as we now come together; they made a Treaty; there was peace; and no white mans blood and no red mans blood had been shed, and there has been peace to this day; this was in olden times.

Oh! these people said we too will make treaties; we too will live in peace. They tried various plans, a plan that worked well when there were but few whites, did not work well when there were many. It was found that when the white man and the red man lived together on the same ground, the white man got the advantages and the red man passed away.

The Great Fathers name at that time was Andrew Jackson: he said I will take the red man across a great river into a fine country where I can take care of them; they have been there twenty years; they have their government, they have their schools, they have their own laws; their Cheif John Ross knows as much as my brother or myself and a great deal more; he is what you call a Lawyer: he is an Indian, a Cherokee. When he goes to see the Great Father, the President, he sits with him at table as you sit with us at table.

Before you met my brother and myself in council, you have your own council; and the Great Father when he acts has his council also, he has his cheifs.

When I saw the Great Father he called his cheifs together, and had a council about you. He has two cheifs who have the care of the red men, their names are Gen'l Orr and Robert Johnson, I want you to remember them. Robert Johnson lives near John Ross; they both told me that what had been done for John

Ross should be done for you, and more, as I will tell you.

As we grow older we learn more and grow wiser; so of the Great Father and his cheifs; they did much for John Ross and his people twenty years ago; they have learned much since and know better what to do; they find one thing however the same now as then.

They gave John Ross and his people a tract of land into which no white man could go without their consent; they sent them an agent, they had schools, they had mills, they had shops, they had teachers, they had farmers, they had doctors. I repeat again no white man could go there unless the red man consented to it.

North of that tract of land the whites are going in but they cannot enter it; South of that tract of land the whites are going in but they cannot enter it; that tract of land is the Indians home; his home and the home of his children.

There are other tracts of land East of the mountains set apart for the red mans home; for there are many tribes. Those tracts the white man cannot enter without the consent of the red man. On all these tracts the red man has schools and farms and mills: they have teachers and physicians and an agent.

Now listen carefully: On these tracts the land was all in common: there were one or more larger fields for the tribes but no man had his special field: the Great Father and his cheifs now think that is not good: the Great Father said, the white man has his farm, his cattle and his horses; the red man shall have his farm his cattle and his horses; the Great Father says that

when on that tract of land an Indian has his field, that field should be his.

This brings us now to the question. What shall we do at this council? We want you and ourselves to agree upon tracts of land where you will live; in these tracts of land we want each man who will work to have his own land, his own horses, his own cattle, and his own home for himself and his children.

On each tract we want an agent to live who shall be your brother, and who shall protect you from bad white men. I shall speak more of this subject by and by.

On each tract we wish to have one or more schools: we want on each tract one or more blacksmiths. one or more carpenters; one or more farmers: we want you and your children to learn to make ploughs, to learn to make wagons, and every thing which you need in your house. We want your women and your daughters to spin, and weave and to make clothes. We want to do this for a certain number of years.

Then you the men will be farmers and mechanics, or you will be doctors and lawyers like white men; your women and your daughters will then teach their children, those who come after them to spin, to weave, to knit, to sew, and all the work of the house and lodges, you will have your own teachers, your own farmers, blacksmiths, wheelwrights and mechanics: besides this we want on each tract a saw mill and a grist mill.

Now we want you to agree with us to such a state of things; You to have your tract with all these things; the rest to be the Great Father's for his white children.

Besides all these things, these shops, these mills and these schools which I have mentioned; we must pay you for the land which you give to the Great Father; these schools and mills and shops, are only a portion of payment. We want besides to agree with you for a fair sum to be given for your lands, to be paid through a term of years as are your schools and your shops.

Now these payments are something you will have to think much about. Whatever is done is done with your free consent; I have more to say about these payments, about the agent, and about your doing better, as I think you will if we can agree.

I am tired of speaking; you are tired of listening. I will speak tomorrow. My brother will now say a few words to you.

Gen'l Palmer Said, I shall say but little to you today; it is not expected we can come together with one day's talk; nor do we expect you can understand with what has been said all that we want. You will not make up your mind until you hear all we have to say.

Tomorrow my brother will say something more to you; when he is through then I will speak to you. Sometimes when people have a matter to settle they commence way off; but as they understand each other they come together. With us, if we commenced way off, I hope we are a little nearer now, and by and by I hope we shall come quite together.

As we expect your are tired sitting, and as we do not wish to say too much at once, we will speak no more.

We will meet tomorrow if you like, at an earlier hour say 10 A.M. and you can come without our sending for

you. If any present wish to say anything, we are ready to listen to it.

No reply was made by the Indians and the Council then adjourned as 4 1/2 P.M.

May 31st. Thursday.

The Indians assembled at 11 1/2 A.M. and at 12 M. the council commenced.

Gov. Stevens Said, My children. I said to you yesterday we want you to agree to live on tracts of land, which shall be your own and your childrens; we want you to sell the land you do not need to your Great Father; we want you to agree with us upon the payments for these lands; we want you to have schools and mills and shops and farms; we want you to have teachers and millwrights and farmers and artisans; we want your people to learn to read and write; your men and boys to be farmers or millwrights or mechanics, or to be of some profession as a lawyer or a doctor. We want your wives and daughters to learn to spin and to weave and to make clothes and all the labor of the house; this for a number of years as we may agree.

I said yesterday this would only be a part of the payment. We want also for a certain number of years to furnish you with some clothing, clothing for your men, your women and your children.

I will mention only some of the principal articles; there will be blankets and cloth for leggings, clothes made, shirts and other articles for the men and boys; there will also be blankets and shawls and calicos and shirting and other articles for the women and girls. The

particular articles however will be agreed upon between yourselves each year; you may want certain articles one year, and different articles the next.

Besides clothing we would wish to furnish you with tools and implements for the shops; for the blacksmith; for the wheelwright, for the tin-smith and such other tools as you might need; we also want to provide you with tools for your farms, with ploughs and hoes and shovels and when you get further advanced with reapers and all the implements the white man has; we want in your houses plates and cups and brass and tin kettles; frying pans to cook your meat and bake ovens to bake your bread, like white people.

I have told you about the mill to grind wheat and corn, and about the mill to saw boards and lumber, and that we should employ carpenters in your service.

We want you by and by to live in houses and we shall furnish you with a mill to saw lumber, and with carpenters, and your own people by and by will become carpenters and then you will have houses; all this for a term of years. Then we hope that all you people, every family will have its farm, its cattle, its horses, and I trust, its sheep; then I said you will have your own teachers and your own schools; you will have your own smiths, your own wheelwrights, your own carpenters, your own physicians and lawyers and other learned men.

I told you of John Ross. As your fathers and your friends we think this will be good for you.

In thinking over the matter we want you to bear in mind what you have seen and what you know. That venerable old man Jim recollects when he first saw a

house in this country; you all of you recollect when you first saw cattle, now you count your horses and your cattle by thousands.

The horse carries you wither you wish to go, yourself, your wife, your children; and your packs, and he works in your fields; your cattle now furnish you with a portion of your food; your cows furnish you with milk and you already know how to make butter; we trust you will make butter and cheese, and that your women will all have churns. Formerly you raised no wheat, no potatoes. Now you have both grain and vegetables. Is not this a great change? A change which you all have seen? Has it not been for your good?

Let us look at it now in a different way. My brother said yesterday he would have much to say today.

We do not want you to agree not to get roots and berries, and not to go off to the Buffalo; we want you to have your roots and to get your berries, and to kill your game; we want you if you wish to mount your horses and go to the Buffalo plains, and we want more; we want you to have peace there. What has disturbed you on these plains? The Blackfeet tribe of Indians who stole your horses and murdered your grown people and your children; we want that to cease forever.

The Blackfeet are not all bad people; they have some good cheifs among them and some good men; a part of them promised me two years ago not to make war upon you, and those have kept their promise; I could not see all, and those I could not see have since given trouble. But I left with them a man who spent a whole year with them; a man whom you have seen here; a man who writes at that table. He traveled all trough their

country, sometimes alone sometimes with two or three men; he saw them all, he talked to them about you, and they promised to meet you in council this year and make peace with you, to murder no longer your people, to steal no longer your horses.

The Blackfeet have now begun to think, if we stop stealing horses from the Indians this side of the mountains, what will become of our bands of horses? They will pass away. Raise your own horses says Mr. Doty as do the Flat Heads, the Nes Perses, the Cayuses, the Walla Wallas, the Coeur D'lanes, the Spokanes, the Yakamas and so back to the Flat Heads again. The Blackfeet then said, the Buffalo are not as plenty as formerly, we have to cut too many old bulls.

Mr. Doty then talked about you, said you had your fields, horses and cattle, and raised your own milk, meat and vegetables; the Blackfeet then said we too would like to have farms; we would like to have cattle and milk and bread.

The Blackfeet and other tribes who live in the Buffalo country, see that the Buffalo cannot subsist there forever; they feel that unless they change their mode of life, they will soon pass away.

They desire to change their mode of life. We shall help them provided they agree not to molest you.

When you see the Blackfeet at the Council they will ask you many questions, they will want you to tell them when you first had horses and cattle, and when you first had crops. If we agree at this council they will ask you all about that; and you will tell them you have not as much game as you once had, and the time is coming when you will not have dressed skins for your clothing;

you will tell them the Buffalo is passing away, and the time will come when we will not have robes for our tents and lodges; we have already changed and found it for our good, and we are determined to make another change in good season; we have made a bargain with the Great Father; we will have instead of tents of lodge skin when there are no Buffalo, houses of boards and of lumber; when the elk and the deer and the buffalo pass away, then we will have clothing, every man and woman and child like the white man; we have enough now to do to get roots and game and berries for our children; but we intend then to raise enough for our women and children, when their number have increased, and roots and berries and game are no longer to be found.

If we can agree here, this you will be able to say to the Blackfeet, and the Blackfeet will say, we will cut old bulls no longer, we will not starve, we will not die of cold, we will do as you have done, we will be friends, we will chase the Buffalo together on the plains, we will be friends forever.

I have spoken of an agent, I will speak more. If we agree at the council to have many things to do for you; the agent will live with you and see that it is done; if you think we have not done our part, go to the agent and tell him so, and he will see that we do it. If we think you have not done your part the agent will go to the cheifs and say so frankly and arrange it with them; he will be your elder brother, and will see that you are not wronged, and that the bargain is carried out.

I have much more in my heart to say but not now, there will be time enough by and by; my brother Gen'l Palmer has to speak, he is your friend as I am but he

has known you longer, and he can speak to you better than myself; he feels for you and you will find that every word which he says comes from a desire to serve you.

If you wish to hear him now he is ready to speak.

Gen'l Palmer Said. My friends, I do not wish to tire your patience too long, I have something to say to you, if you will listen a little longer I will speak.

My brother here speaks truly, when he says I desire to speak and act for your good.

In order to explain more fully the course pursued by the government towards the Indians on the other side of the mountains I will tell you of it; my brother here has reference to that subject and I may perhaps have to repeat his words.

He has told you something about our first settlements among the Indians over the mountains; those settlements were made over three hundred and sixty years ago. First came a cheif with several of his brethren in three ships across the ocean, they found many Indians in that country who received them kindly, they gave to them food and received in return beads and various trinkets; that cheif after traveling over a great extent of country and visiting many vilages left a part of his people and returned home.

After having been absent some time he returned with many others, upon arriving at the point where he had left his children none could be found. After the Cheif left, these people began to quarrel among themselves and with the Indians.

There were many causes for this; a portion of the Indians whose hearts were not good, stole the property belonging to these people; the whites retaliated by whipping and ill treating them. That was the first offense on the part of the Indians; the whites had long been without women and they often took forcibly the women of the Indians; this induced them on their part to retaliate; these difficulties continued from bad to worse until finally there was war; our people were but few, the Indians many; our people were all killed; there were also many Indians killed. Upon seeing our Cheif return with his vessel and other vessels and so many people they fled; they knew they had done wrong as well as the whites, and they expected they would be punished for it; this time our cheifs brot' with them their women and children and cattle and horses, and tools to work with.

The Indians seeing they were not interfering with them returned and for a while they lived together in peace; but they lived indiscriminately together, a white man here and an Indian there; but they could not long live this; their customs and mode of life was different, they did not understand each other; they continued a number of years with little difficulties occurring, occasionally killing one another until it finally broke out with another war; peace would sometimes be made and last for a little time, but finally they would get foolish and their hearts would get bad; as it is said in this country sometimes; in this part of the country by the young men they are few and we are many let us wipe them out.

They finally made war, a council was held, speeches and harangues were made and they declared war, a few

white men were killed and many Indians were killed; there were more Indians killed than white men because we had better arms and know how to make them. This war continued some time but finally they had peace; the whites brought with them and made after they arrived here whiskey; this the Indians were very fond of and like all other persons after drinking it were foolish; they quarreled among themselves and killed each other and some whites in their drunken frolics; our cheif saw this condition and desired to do them good; he saw that the Indians and the white man could not live peaceably together: he called the Indians together in council; he proposed as we propose in this council, to purchase their country and select a place for them to live; he proposed to have a district of country set aside for the Indians to live in that no white man should live there; but the Indians said No! why should we leave the bones of our fathers and go to a strange land; we have plenty of elk, deer, bear, berries, and roots; we like you let us live together, we don't want to cultivate the soil you are welcome to occupy it; they were told that the wild game, the roots and the berries would not last always; they said they were a great and numerous people, they knew what was best for them and did not want our counsel; they quit talking, the whites went to their houses and Indians to their lodges; our people continued coming; every year vessels came until our people got as numerous as the leaves on the trees.

It was but a few years before their game was all killed off; for the white man killed the game as well as the Indians; the Indians had no food in his lodges, the women and children were hungry; at last they commenced stealing our peoples property and

plundering their houses; our people were forced to retaliate by whipping and shooting some of them. The Indians again sent messengers to the surrounding tribes to call them to make war; they resolved in council to exterminate the whites, kill them off; they commenced by burning houses, murdering women and children, and killed a good many of our people; finally our warriors were collected and they had war; they did not understand our mode of warfare and thousands of Indians were killed and but a few of our people were killed in the battles. This continued for a long time and the tribes finally concluded they had been acting foolish, and that they would receive the talk of our cheif.

Those that were left finally agreed to meet our cheif in council; they did so and there was peace. In that council it was agreed by the Indians that they would reside on a certain district, set aside for them certain limits, certain bounds; they agreed in that council to live in peace with the whites, and to commit no depredations on them, and to live at peace with other tribes; our cheif agreed that we would build them mills, black smith shops, carpenters shops and supply them with all necessary fixtures.

Our cheif directed his agents to build those mills and school houses and shops, and he employed teachers and smiths and millers and sent them among them. They supplied them with cattle and horses and oxen and ploughs and waggons and every variety of farming tools.

These Indians then began to see that they had acted very foolish, and that when they supposed they knew enough for them and did not want any of our counsel,

they knew nothing, they were as blind men; they have since been learning and continued to learn and prosper, and are now a great happy and good people; there were a few tribes who refused to go into that council, who refused to treat. What was the condition of that people? Those who thought themselves very wise and refused to take the advice of the white people those who continued to make war upon our people? Their game was all killed, they had nothing to eat, they fled to the mountains then they continued to live but a few years of miserable existence, until they were finally overtaken by more powerful tribes and all killed. There were other tribes in other districts of country, who heeded the advice of the cheif and were set aside in districts of country belonging to themselves.

In all cases where they have entered into a treaty and agreed to reside upon tracts set apart for them our cheif has aided them. All who have settled upon these tracts have not done well, for are lazy and have foolishly thrown away what has been paid them.

But you as a people know how to appreciate these advantages and would not throw them away; all experience we have had with Indians these Three hundred and sixty years shows us that the white man and the red man cannot live happily together; although we may live near together there should be a line of distinction drawn so that the Indians may know where his land is and the white man where his land is; you are all able to judge for yourselves by the constant difficulties that are occuring here among you, between the whites and the Indians.

We have some people whose hearts are bad, who violate our laws; we have men who are afraid to live in the

settlements, they seek opportunities to go among people at a distance, among the Indians; as an evidence of that I need only refer to matters that have transpired within the past four weeks in your own country; a few men had formed a plot by which they were to get your horses: their plan was this: part of those men went over into your bands and if they found any horse branded took a description of it, wrote it down in a book; when they had visited all your bands and got the description they would go away. Sometime after they would take their book and give one of their party a description of these horses and an order to get them; when they gather up all these horses they will drive them off to the Grande Ronde or some place in the Blue Mountains; they contemplate when they had got the stray horses coming back and driving all your horses to Salt Lake; but a short time ago Mr. Thompson came up and learned the trick: he went below and took out a warrant for them and these soldiers came up to try to arrest them.

It is these men I am told who would rob you of your property, who are giving you advice not to treat with us; whose counsels do you prefer to take? These men who would rob you, or ours who come to befriend you? These men who came here are strangers to you with smooth tongues, they care nothing about the truth. I don't mean to say that all who come among you are bad men; I am afraid there are a few of these young men who come to live among you and wish to get your women, not because they desire your women but because they want your horses; they will come and remain among you a few years, get a woman and raise children, but when they get a band of horses around them, they will be off and leave the women and

children without anything; I have been told that one of these men has been in your camp since we have been holding this council, advising you to have nothing to do with us; these men you cannot tell always who they are, but all such men need watching; you will now be able to judge who are your friends, such men, or myself and my brother who have come here to act for your good.

We have been talking a good while and you have been listening. You are tired sitting. I have more to say to you but I will leave it till tomorrow and say no more at present.

The Council then adjourned at 3 1/2 P. M.

In the evening the Young Cheif sent a message to the Commissioners to the effect that he should be pleased if no council should be held tomorrow, as his people desired to make a great Feast and have a general holiday. To which request the Commissioners acceded.

Lawyer, Pee-o-pee-mox-a-mox, Young Cheif and Cam-i-ah-kun dined at Gov. Stevens table with Gen'l Palmer and the gentlemen of the party.

June 1st. Friday.

All about the Treaty Ground was very quiet, all the principal Cheifs dined at Gov. Stevens table.

The day was extremely warm and to have held a council would have been most uncomfortable.

June 2nd. Saturday.

The Indians began to collect at 11 1/2 A.M. Some delay was occasioned by the non appearance of Cam-i-ah-kun and Ow-hi. But at 12 M. all the cheifs being present the council opened.

Gen'l Palmer Said. My friends, we have met here today to continue the talk; I shall try and speak so that you may understand me.

I have said that the white man and the Indians could not long live together in peace, a few may do so, but where there are many we cannot do it. If your Cheifs are unable to restrain your people where there are but few, how can our Cheif prevent his people from doing wrong when they are so many and scattered over so large an extent of country.

It is but fifty years since the first white man came among you, those were Lewis and Clark who came down the Big River - the Columbia. Next came Mr. Hunt and his party, then came the Hudson Bay Co. who were traders. Next came missionaries; these were followed by emegrants with waggons across the plains; and now we have a good many settlers in the country below you.

If there were no other whites coming into the country we might get along in peace; You may ask, why do they come? Can you stop the waters of the Columbia river from flowing on its course? Can you prevent the wind from blowing? Can you prevent the rain from falling? Can you prevent the whites from coming? You are answered No! Like the grasshoppers on the plains; some years there will be more come than others, you cannot stop them. Our cheif cannot stop them, we

cannot stop them; they say this land was not made for you alone, the air that we breathe, the water that we drink, was made for all. The fish that come up the rivers, and the beasts that roam through the forests and the plains, and the fowls of the air, were alike made for the white man and the red man.

Who can say that this is mine and that is yours? The white man will come to enjoy these blessings with you; what shall we do to protect you and preserve peace? There are but few whites here now, there will be many, let us like wise men, act so as to prevent trouble.

And now while there is room to select for you a home where there are no white men living let us do so. I have made treaties with all the Indians tribes in the Willamette Valley, with all in the Umqua Valley, with all in the Rogue River and Shasta country; they have agreed to remove to such tracts as shall be selected for them; they have agreed to be friendly with the whites and all other Indians; they have sold us all their country except the reservations; we have agreed to build them mills, blacksmith shops, waggon makers shop, to erect a tin shop and gun smith shop, to build a school house and hospital, to employ millers, mechanics, school teachers, doctors and farmers, all these expenses to be paid by the government for twenty years.

Do you want these things: Do you want a saw mill to saw the timber to build your houses? You have a few lodges now, how long will they last? By and by where will you get your hides to make lodges? Gov. Stevens told you that the Blackfeet said the Buffalo were not as plenty as they were once; it is but a few years since there were a plenty of Buffalo at Fort Hall. Mr. Craig

here has seen many of them there and probably others of you have; where are they now? all gone;

Do you want mills to grind your wheat and your corn? Do you want blacksmiths to make your ploughs and harrows? To make your axes, hatchets, hoes, knives, and to shoe your horses? Do you want a gun-smith to mend your guns when broken?: Do you want a tinner to mend your kittles, your pans and cups? Do you want a carpenter to build your houses and a waggon maker to make your waggons? Do you want a shoe maker to make your boots & shoes? Do you want a doctor to attend to the sick and give them proper medicines? Do you want farmers to assist you and show you how to raise wheat, corn and potatoes? Do you want school teachers to teach your children how to read and write? Is it not good that these men can write down what is said here and understand what it is? It would make my heart glad if you could all do so. It would make my brother's heart glad if you could all do so; would it not be good if you wanted to talk with my brother, or if you wanted to talk with our Great Chief? If you knew how to write and wanted to talk you could send it to him on paper and he would know your heart: would it not be good then to have schools among you?

Do you want to have plenty of provisions for your women and children? Do you want to have plenty of blankets and clothing? The deer skin and the elk skin cannot always be had to make your clothing; do you always want to live at peace with all persons? If you want all these things we are ready to give them to you; when we know your hearts then we shall know whether you want these things or not.

You have often been told that by and by our Great Cheif would send some person to buy your country. I suppose you have been looking for that person a long time; Dr. White came here. What did he do? He may have talked very well to you but what use? Mr. Wampool came, what did he do for you? My brother and myself have come, we have not only come to talk but to do something. Will you receive it or will you throw it behind you? We did not come here to scare you or to drive you away, but we came here to talk to you like men, and to make such arrangements as to preserve peace and protect you. Our agents have tried to protect you in all your rights: but I am fearful they will not always be able to do so, if you continue to live in this scattered condition.

I see here a good many old people. I expect you have left a good many of your old people at home; we want to do them some good while they yet live, and if you enter into a treaty with us we can then do them some good and do you all good; if we enter into a treaty now we can select a good country for you; but if we wait till the country is filled up with whites, where will we find such a place? My heart is that it is better for you to enter into a treaty now with us. I know that my brother has a good heart and wants to do you good, but we do not know how long we can act for you. Perhaps it may not be long before other agents will come; the next that come may not have such good hearts and do as much for you as we will.

If we make a treaty with you and our Great Cheif and his council approves it, you can rely on all its provisions being carried out strictly. My heart is that it is wise for you to do so. I will not speak any longer.

Gov. Stevens Said. My Children, my brother and myself have opened our hearts to you, we want you to open your hearts to us.

Five Crows Said, we are tired.

Gen'l Palmer Said. We are not expecting to say any more today.

Five Crows Said. I have a little to say. Do you speak true that you call me brother? We have but one Father in Heaven; it is He /pointing above/ who has made all the earth; He made us of earth on this earth: He made our Fathers; when he gave us this earth. He gave no gardens also.

He created our Fathers when he created Adam; we were divided into different countries; It was He, the Almighty that passed the law; you must do no evil, you must not steal, you shall not take any thing without payment; the Great Father says he will send the thief into fire - into hell -

The Commissioners said will you speak now or on Monday?

Pee-o-pee-mox-a-mox Said. Why not speak tomorrow as well as today? We have listened to all you have to say, and we desire you should listen when any Indian speaks. It appears that Craig knows the hearts of his people, that the whole has been prearranged in the hearts of the Indians; that he wants an answer immediately without giving them time to think; that the Indians have had nothing to say so far it would appear that we have no cheif.

I know the value of your speech from having experienced the same in California, having seen treaties there. We have not seen in a true light the object of your speeches; as if there was a post set between us, as if my heart cried from what you have said; as if the Almighty came down upon us here this day; as if He would say, What are you saying? Look at yourselves your flesh is white mine is different, mine looks poor; our languages are different. If you would speak straight then I would think you spoke well; we have come together to speak about the earth and not of God; you were not afraid of the Devil!

You see this earth that we are sitting on; this country is small in all directions. Why should you fear to speak on Sunday? Should I speak to you of things that have been long ago as you have done? The whites made me do what they pleased, they told me to do this and that and I did it; they used to make our women to smoke; I suppose then they did what was right: when they told me to dance with all these motions that are here then I danced. From that time all the Indians became proud, and called themselves cheifs.

On another subject I have something else to say. Now how are we here as a post? From what you have said I think you intend to win our country, or how is it to be? In one day the Americans become as numerous as the grass; this I learned in California; I know that is not right. You have spoken in a round about way; speak straight. I have ears to hear you and here is my heart. Suppose you show me goods shall I run up and take them? That is the way we are, we Indians, as you know us. Goods and the Earth are not equal; goods are for

using on the Earth. I do not know where they have given lands for goods.

We require time to think, quietly, slowly. I see Americans in all countries, it is not the country to think about, we may think about another; there is the Mission /Catholic Mission/ it is right there and it is right it should be there. You have spoken in a manner partly tending to Evil. Speak plain to us. I am a poor Indian, show me charity; if there was a cheif among the Nes Perses or Cayuses, if they saw evil done they would put a stop to it and all would be quiet; Such cheifs I hope Gov. Stevens and Gen'l Palmer are. I should feel very much ashamed if the Americans should do anything wrong. I had but a little to say, that is all. I do not wish you to reply today, think over what I have said.

Cos-os-pi-lo- Said in substance as follows, it was addressed to his people and rendered by the Interpreters after the conclusion of his speech.

He reproved the young men for laughing and talking: said they considered him of no account any longer; they had knocked off his horns and his teeth were worn out; once he had horns and he could hook; teeth and they were sharp and he could bite; you young men think yourselves very smart by and by you will learn; now I am tired of your conduct; I am not speaking to Gov. Stevens or Gen'l Palmer, I am speaking to you young men, as my children, to listen and behave yourselves.

Gov. Stevens Said. We are ready to hear, my friends anything you have to say today. If you desire not to speak today the council will adjourn till Monday. We do not wish to speak on Sunday because our Great Cheif

does not want us to do business on that day, unless it is a matter of necessity. We think that most of our red brethren do not wish to do business on Sunday. The Council is adjourned till Monday at 10 A.M.

And the Indians then dispersed at 3 P.M.

June 4th at 12 1/2 P.M. the Indians began to collect and 1 1/2 P.M. the council opened.

Gov. Stevens Said. Pee-o-pee-mox-a-mox said on Saturday, he had listened patiently to all we had said, and hoped we would listen patiently when any Indian spoke. We listened patiently on Saturday, we shall listen patiently today; we want you to open your hearts and speak freely.

After a long pause the Lawyer said. If you will designate some one to speak first he will speak. If you do not they will sit here all day without speaking.

Gov. Stevens Said. We expect the Head Cheifs know the hearts of their people. We will be glad to hear the Lawyer speak.

The Lawyer said. My cheifs and people, I will now speak, listen (to Commissioners) I ask good for these poor people; I think my cheif about what you have been speaking; It is from the man that made us, My Cheif, or is it from your own people? that is the reason of my asking, where is it from you have spoken My Cheif? Although I think it is from the white people; from where the white people is they have been dying and dying, and are yet dying, and also the whites are living all from the same people. The same thing of our people our red people that are younger and from the same

root; and here you see these many of us yet and still living, old men and children.

The Supreme Being our maker listens to the white people who are dead and also to those who are living; the same thing with the red people, they listen to the dead and also the living.

And this what the President has made up his mind for us poor people; he has thought we were a poor people and says go and see them and learn them straight; and that is the reason you have told them you would learn them to read and write and all those other things you have spoken of; and that is the reason I have understood what you have spoken from the President; for that reason you have been asking us questions, and now we are asking questions from you.

It was not for nothing I have been listening to you. My country is poor it is a trifling country. You see the map the marks of our country, one stream runs one way another runs another way, it is all rock. My Cheif, but the Big Cheif from the light (the East) said to you go and talk to these people and you have done it, he says go there to take care of your white people and your red people and you have done it. As long as the Earth stands take care of the people; he said to the white people and the red people all as one let us listen to the laws, when the earth is done away with there is the end of the law, and that is the reason you see us good and we see you good.

My Cheif that is all I have to say at the present, there are a good many men here who wish to speak. Let them speak.

The Commissioners requested Pe-at-tan-at-tee-miner to speak, who replies. You have heard what I have to say. My mind is the same as the Lawyer has spoken. What I had to say he has said, he has spoken my mind, I have nothing to say, he has said all, for my land it is for you and for me. I shall do you no wrong and you do me none, both our rights shall be protected forever; it is not for ourselves here that we are talking, it is for those what come that we are speaking. This is all I have to say at this present time.

Cam-i-ah-kun was invited to speak and said. I have something different to say than the others have said. It is young men who have spoken; I have been afraid of the white man, their doings are different from ours. Your cheifs are good, perhaps you have spoken straight, that your children will do what is right, let them do as they have promised. This is all I have to say.

Pee-o-pee-mox-a-mox was next invited and said I do not wish to speak. I leave it to the old men.

Gen'l Palmer Said. We do not know who of them desire to speak; let their old men speak if they desire to do so.

Gov. Stevens Said. If u-u-Sin-mull-e-cun would like to speak we would be glad to hear him. He replied. I do not wish to speak now let those who have already spoken speak. What the Lawyer has said is my heart, it is not necessary for me to speak.

The Commissioners called upon Staachas to speak who said, how is a cheifs language? How is the Big Cheif talk? Where has their talk sprung from? That they have spoken straight on the part of the Indians; the Lawyer although young has spoken well for me. Who is

it that is going to speak straight for all of us. Now I want the whites and the Indians to show all their hearts; you know and we all know life while we are living, and I ask you my friends to speak straight and plain to us, as if I spoke to the President I say Yes. I would wish that the President was here so that we might all listen to him; he would enlighten us, he would give us life, he would make us to live as we ought to live, we would give each other our hands to hold always.

Lawyer spoke first and he will have more to say about this we are now speaking of. Lawyer has asked you to speak plain. I make the same request. I have nothing more to say.

Pee-o-pee-mox-a-mox Said. I do not know what they (the interpreters) have said. My heart was heavy, my heart has to seperate so, that was my heart. I do not know for what lands they (the Interpreters) have spoken. If they had mentioned the lands that had spoken of then I should have understood them. Let it be as you propose, so the Indians have a place to live, a line as though it was fenced in, where no white man can go.

If you say it shall be so then all these Indians will say yes. Although that you have said the whites are like the wind: You cannot stop them, you make good what you have promised.

You have spoken for lands generally. You have not spoken of any particular ones, your words are here (at this place). If you spoke as the watch goes, then we would say yes; the manner in which you have addressed the whole of us has made my heart heavy. I

had nothing to say: I like you Americans; and I like the Hudson Bay Co. people by which means I am led this way and that way; I do not know as yet what lands these Indians have spoken for but when they mention the lands then I shall know.

Fah-hah-tsil-pilp or the Red Bear said: I am not ashamed of any of my friends, for why should I be ashamed? If there was something above that I should be ashamed of, then I should be ashamed; I am not ashamed of any people that are sitting around, we have spoken here with our brothers. This is the first time I have ever seen my brothers here.

I like your talk very much as I have heard it, and that is the reason I have listened to you well. And here where we see each other face to face we will talk straight. We shall know if you shall like my talk that I am now talking as I have like yours. I wonder if we shall both tell the truth to each other.

This is what I think my Brothers, that one time more we will talk, we will not say yes from what has yet been said.

Now my younger brother there will speak. Being thus called upon.

Tip-pee-il-lan-ah-cow-pook, or Eagle from the Light arose and said: Yes my friends you see where the Sun is. He hears me. It is from beyond where the Sun is that sent you here to talk.

The red people are put on this earth. A white man was sent on this earth from the Light (meaning the East). The red man was sent from the West, and now the big

cheif from the Light has sent his talk here to the red people.

The President has spoken to me throught you and I hear it. He likes us. He has fixed places for us to sit on and love one another. And I also like the white people as the President likes us.

On a road ready finished, he has sent you here. Look at the face of the earth, there is a road to travel on. Roads up the valleys and roads on to the end of the earth. From the time you started, you found a road till this time.

You are now come to join together the white man and the red men.

And why should I hide anything? I am going now to tell you a tale. I like the President's talk; I am glad of it when I hear it here and for that reason I am going to tell you a tale.

The time the first white men ever passed through this country, although the people of this country were blind, it was their heart to be friendly to them. Although they did not know what the white people said to them they answered yes, as if they were blind. They traveled about with the white people as if the people that said that had been lost, and those lost people said to them, yes.

I have been talked to by the French and by the Americans, and one says to me, go this way, and the other says go another way; and that is the reason I am lost between them.

A long time ago they hung my brother for no offence, and this I say to my brother here that he may think of it.

Afterwards came Spalding and Whitman. They advised us well and taught us well, very well. It was from the same source, the Light (the East). They had pity on us and we were pitied. And Spalding sent my Father to the East—the states—and he went. His body was never returned. He was sent to learn good counsel and friendship and many things. That is another thing to think of.

At the time, in this place here, when there was blood spilled on the ground, tho there was blood upon the earth we were friendly to the whites and they to us. At that time they found it out that we were friends to them. My Cheif, my own cheif said, I will try to settle all the bad matters with the whites and he started to look for counsel to straighten up matters; and there his body lies, beyond here. He has never returned.

At the time the Indians held a grand Council at Fort Laramie. I was with the Flatheads and I heard there would be a council this side, next year. We were asked to go and find counsel, friendship and good advice. Many of my people started and died in the country. Died hunting what was right. There was a good many started there on Green River, the small-pox killed all but one. They were going to find good counsel in the East; and here I am looking still for counsel, and to be taught what is best to be done.

And now look at my peoples' bodies scattered everywhere hunting for knowledge, hunting for someone to teach them to go straight.

And now I show it to you, and I want you to think of it. I am of a poor people.

A preacher came to us, Mr. Spalding. He talked to us to learn, and from that he turned to be a trader, as though there was two in one, one a preacher and the other a trader. He made a farm and raised grain and bought our stock, as though there was two in one; one a preacher the other a trader.

And now from the East has spoken and I have heard it. And I do not wish another preacher to come and be both a trader and preacher in one. A piece of ground for a preacher, big enough for his own use, is all that is necessary for him.

Look at that, it is the tale I had to tell you, and now I am going to hunt friendship and good advice.

We will come straight here– slowly, perhaps,–but we will come straight.

Gov. Stevens said: My brother, if any of you wish to speak today, I will still be silent. Is there anyone who wishes to speak now? If not, I will go on. We have listened to you carefully. We think we know your hearts.

You are willing to make a bargain. You want to know exactly the terms. We have promised mills, shops, schools, teachers, farmers, and all the other things for a term of years. You want to know how many years. We have promised you as the other part of the payment clothing for yourselves, your wives, and your children; tools and implements for your farms and shops and articles for your house.

You want to know how much clothing. How many implements and tools and articles for your farms, your shops, and your houses; and how many years will you have them?

Before I answer that, I will answer another question which you have asked me. You want to know where your Reservations are to be. What is the ground we have in view for you. I will explain this matter freely.

Here are the Nes Perses, Cayuses, Walla Wallas, Yakamas and Umatillas and bands on both sides the Great river to below the Dalles.

Tribes northwards: Colvilles, O-kin-a-kune, Palouse.

For the principal tribes here present, we have thought of two Reservations. One Reservation is the Nes Perses country and one in the Yakama country. The Reservation in the Nes Perses country, to extend from the Blue mountains to the spurs of the Bitter Root, and from the Palouse river to part way up the Grande Ronde and Salmon River.

On this Reservation we wish to place the Spokanes, the Cayuses, the Walla Wallas, as well as the Nes Perses, and also the Umatillas. That will be something for them to think about to see whether they can agree to it.

The Yakama Reservation to extend from the Attannun river--to include the valley of the Pisco river--and from the Yakama river to the Cascade Mountains. On this Reservation we wish to place the Colvilles, O-kin-a-kunes, Palouse, Pesquouse, Klit-a-tats, and the bands on the north side of the river below the Walla Wallas as far as the Kuth la poodle river, near the

Cowlitz. All these as well as the Yakamas on that Reservation.

There is a third Reservation East of Mr. Jeffersons which will be explained to you by Gen'l Palmer; there it is proposed to place the bands below the Umatillas.

We want you to think about this and see if you like it. You may think the Reservations are not good. If not you will say so. The Cayuses, the Walla Wallas, the Umatillas, may prefer the Yakama to the Nes Perses Reservation, and they may not like either.

I will give briefly the reason for selecting these two Reservations. We think they are large enough to furnish each man and each family with a farm, and grazing for all your animals. There is especially in winter grazing on each Reservation. There is plenty of Salmon on these Reservations, there are roots and berries. There is also some game. You will be near the Great Road and can take your horses and your cattle down the river and to the Sound to market.

Though near to the great roads, you are a little off from them, and you will not be liable to be troubled by travellers passing through.

We can better protect you from bad white men there. We can better prevent the trader and the preacher all in one man going there. We can better prevent bad men telling you to dance, and cheating you with lies. We can better stop the theif who comes to steal your horses. Your horses will be saved to you and there will be no theives to throw into hell-fire.

You may ask, why so many tribes on one Reservation, and how is it proper to place them on the Reservation?

We want as many tribes together as can be taken care of by one agent. We can do more with the same means; this is a matter I wish to explain fully, and also about the payment in clothing, etc., which I mentioned in the first part of what I said, I will speak no more today, but speak tomorrow. Think over what I have said and hear the rest tomorrow.

Gen'l Palmer said: I shall say nothing to you tonight. You have been sitting a long time and you are tired. We want you to come tomorrow morning early. We want you all to come. You have heard but part, we want you to hear the whole, and when you hear all I think you will say it is good. I have nothing more to say to night.

The Council then adjourned at 6 P. M.

June 5th, Tuesday.

The Indians began to collect at 11½ A.M. and at 12 M. the council opened.

Gov. Stevens said: My children, I stated yesterday that we wished to place you on two Reservations and that as regards the tribes below the Umatillas. There was a third Reservation which would be explained by my brother, Gen'l Palmer. I stated we wanted as many tribes as could be taken care of by one agent.

I will now explain this matter fore freely. We wish to put the Spokanes, the Nes Perces, the Walla Wallas, the Cayuse, the Umatillas on one Reservation in the Nes Perses country.

Here (showing a draft on a large scale) is a map of the Reservation. There is the Snake River. There is the Clear Water river. Here is the Salmon river. Here is

the Grande Ronde river. There is the Palouse river. There is the El-pow-wow-wee.

We commence where this river, the Palouse, comes from the mountains, and down the river to the mouth of the Ti-not-pan-up, then to the Snake river 10 miles below the mouth of the El-pow-wow-wee, then to the source of the El-pow-wow-wee, Thence along the crest of the Blue Mountains to the Grande River below the Grande Ronde, thence along the ridge between the Wall-low-low river crossing the Snake River 15 miles below the mouth of Powder river, thence to the salmon river a little above the crossing, thence by the spurs of the mountains to the source of the Palouse river at the place of beginning.

This is a large Reservation. The best fisheries on the Snake River are on it; there are the fisheries on the Grande Ronde river. There are fisheries on the Os-ker-wa-wee, and the other streams. There are cumash grounds here at this place (pointing to the large cumash grounds of the Nes Perses). We feel if we put you on this Reservation our agent can visit you all and take care of you all.

Each tribe will have its own place on the Reservation. The Spokanes will have their place and their home. The Nes Perses their place and their home. The Walla Wallas their place and their home. The Cayuse and the Umatillas their place and their home.

The Spokanes will have a blacksmith, a school, and a farmer. The Walla Wallas will have a blacksmith, a school, and a farmer. The Cayuse and Umatillas will have a blacksmith, a school, and a farmer. The Nes

Perses are more numerous, they will have two blacksmiths, two schools, and two farmers.

These schools are the first schools where your children will learn to read and write. The agent will live in some central place where there will be an agricultural and industrial school common to all the tribes. To this school all the tribes will send such of their children as wish to study more than in the first schools, and to learn trades. Here where the agent lives will be the tinner and the tin shop. There will be one for all the tribes. There will be the waggon maker and wheel right; there will be one for all the tribes.

For the four tribes there will be two saw-mills and two flouring mills in proper localities. Thus all the tribes will be on an even footing, and each will have the same provision made for them.

You will see that you will be better take care of all on one reservation; each tribe having its own place, than if the Spokanes were on one reservation with the whites all around them, the Nes Perses on one reservation with the whites all around them, the Cayuse and Umatillas on one reservation with the whites all around them.

Here (showing the map) you will be on one Reservation with equal rights under one Agent, and the same provisions for your welfare. But each tribe has its head cheif. A cheif takes care of his people. He people listen to him. He devotes his time, his very life to their good. We want you cheifs to be such men, we expect them to know about you and to see that we do our part. They will not work for themselves, they will work for you. We shall therefore give the Head Cheif of each tribe

Five Hundred Dollars a year for 20 years to be paid in cash.

We shall build for each Head Cheif a good house to live in. The Agent will have his house and he will be paid. The Head cheifs shall have their houses and be paid. They will all labor for the good of the Indians.

You will be allowed to pasture your animals on land not claimed or occupied by settlers, white men. You will be allowed to go on the roads, to take your things to market, your horses and cattle. You will be allowed to go to the usual fishing places and fish in common with the whites, and to get roots and berries and to kill game on land not occupied by the whites; all this outside the Reservation.

My friends, I have held four councils on Puget Sound. I have made treaties with all the Indians on that sound. They number more than all the tribes here present. They have all agreed, should the President decide, to go on one Reservation. That Reservation is only about one fiftieth part as large as this; they have, however, few horses and cattle. They have not three hundred head. They take Salmon and catch whale and make oil. They ask for no more land. They think they have land enough. You will be farmers and stock raisers and wool growers and you need more.

Now I will tell you the payments that will be made provided you are placed on one Reservation. If you go on different Reservations different provisions will be made. Well, you all go on one Reservation, Spokanes, Nes Perses, Walla Wallas, Cayuses and Umatillas; we shall spend a certain amount in moving you onto the Reservation, in breaking up and fencing your farms, in

building houses for your cheifs, your sub-cheifs and your people, in cooking utensils for your houses, in milk pans and churns, in a good supply of blankets and clothing. In all these things we will expend for you, One Hundred Thousand Dollars. This will be done the fist year you go on the Reservation.

Now, if any man gives up a tract of land in going onto the Reservation, he will have the same thing done for him that is done for all the rest and he will have, in addition, his improvements made good to him on the Reservation or the value of them paid to him in cash, as he may desire.

The other payments extend through twenty years. Two Hundred and Fifty Thousand Dollars. We do not want to spend this amount or much of it in cash, and I want my friend Pee-o-pee-mox-a-mox and the other cheifs to listen while I give the reason. I ask all the cheifs to hear my reasons and think of them.

We can furnish you with nearly twice as many good with the same amount of money as you can get from the Traders. We shall buy the things you want in New York and San Francisco at cheap rates and good articles. The expense of getting them to you will not come out of your money; it will cost you nothing. You now pay Eight or Nine Dollars for a blanket at Fort Walla Walla, we shall furnish you two such blankets for less than that sum, say from six to seven dollars. At Fort Walla Walla a flannel shirt costs three dollars, we will give you three shirts for three dollars. You pay for a calico shirt at Walla Walla one and a half and two dollars. We can furnish calico shirts for fifty cents a piece. If we furnish the goods therefore, you will get three blankets, three flannel shirts and three calico

shirts for the same money you now pay for one blanket, one flannel shirt, one calico shirt, and have to make a long journey for them besides. We can furnish four hoes for a dollar and a half. You know what you have to pay for a single hoe at Fort Walla Walla and the Dalles. We want the payments to do as much for your good as possible. We don't want half of it to go into the pockets of Traders.

I ask the cheifs to listen to me again.

There will be a certain sum each year for their people. We want them each year to consult their people and tell us what things they want. We want them to make out a list how many blankets they want and what kind of blankets, the number of flannel and calico shirts they want, and so for every article of clothing for their men, women and children. Also the tools they want for their farms, their house and their shops. In short we want the cheifs to tell us how they want the money spent. The list to be made out every summer for the pay of the next year. If you want part of the pay made in money, we want you to give the reasons and state the sum each year. We will send your reasons to the President and let him decide. There are many of you we would be willing to give a part of the payment in money, but not to men who drink whiskey, and not to the men who do not take care of their wives and children. Let, therefore, your cheifs each year make out a list of how much money and we will send it to the President.

I have now a few words to say in regard to the Yakama reservation; the same provisions as regards schools, farms, and shops will be made, as in the case of the Nez Perses Reservation.

Here is the Yakama Reservation, commencing with the mouth of the Attanum river, along the Attanum river to the cascade mountains, thence down the main chain of the Cascade mountains south of Mount Adams, thence along the Highlands separating the Pisco and the Sattass river from the rivers flowing into the Columbia, thence to the crossing of the Yakama below the main fisheries, then up the main Yakama to the Attanum where we began.

We propose to place there the Colvilles, the O-kin-a-kunes and Pisquouse Indians (they now send their cattle and horses there in winter), also the Bands on the Columbia River below the Walla Wallas down to the mouth of the Kuth la poodle river, also the Klicatat around Mount Adams and Mount St. Helens. These Klicatats and these bands on the Columbia originally came from here or further north.

We will give one blacksmith, one farmer and one school for the Covilles, one of each for the Pisquouse and O-kin-a-kunes, one of each for the Yakamas, one of each for the Yakamas including the Palouses, one of each for the remaining bands. They shall have the agricultural and industrial school as in the other Reservation. They shall have the same mechanics, gunsmith, tinsmith, plough and waggon makers. There children shall be taught and they shall learn trades like the children on the other Reservation. They shall have the same liberties outside the Reservation to pasture animals on land not occupied by whites, to kill game, to get berries and to go on the roads to market. Payments to be made in the same way as in the Nes Perses Reservation. One Hundred Thousand Dollars to

be expended the first year. Tow Hundred and Fifty Thousand Dollars, the next Twenty years.

I need say nothing more. It is designed to make the same provision for all the tribes and for each Indian of every tribe. The people of one tribe are as much the people of the Great Father as the people of another tribe; the red men are as much his children as the white men.

We think this plan will be for your good. We want you to think of it. I have tried to talk plain and to speak straight out. My Brother will now speak

Gen'l Palmer Said. My Brothers, my brother here has said as much perhaps as should be said. He has told you what we desire to do for you; it is for you to say whether you will receive it or throw it away; we have but one heart; he has been speaking of something which interests you; it is the duty of your cheifs and your men to think well of it. It was said by this man (Young Cheif) the other day that we were not acting wholly for these that are here now, but for those who come after us; it is the duty of a parent to provide for his children. You may not understand all the advantages of the propositions that have been made to you; but they are for your benefit and those who come after you; as a cheif desiring to promote your interest, I say it is good; that I would not deceive you; the Great Spirit who knows the heart of all men knows that I desire to promote your good.

We expect it will take at least two years to prepare these reservations for you to go onto. If we make a bargain and sign the papers, my Brother and myself and all the Head Cheifs and Head men, that paper

must go to Washington. Our Cheif and his council will examine it; if they approve it they say yes, and give us the money to expend in accordance with its provisions.

My brother has stated that you will be permitted to travel the roads outside the Reservation. We have some kind of roads which perhaps you have never seen; we may wish to make one of the roads from the settlements east of the mountains to our settlements here; they may desire to run that road through your Reservation; if we desire to do so we wish that privilege; that kind of road we call a railroad. I will try and explain to you the way in which we make such roads. We first lay on the ground sticks of timber, we then lay other sticks across in that way, unite them together and put a strip of iron on the top of them, we then place a waggon on those tracks and instead of having horses or oxen hitched to the waggon we build a fire; some of you have seen a steamboat; they have on this waggon a boiler filled with water, the fire heats the water and produces steam, which propels the machine. I am unable to explain the machinery or the way in which it works but they travel faster than your swiftest horses can run, all the time. If we start from here at sunrise we can be at Wascopen by the middle of the day. We sometimes attach twenty of those waggons together and one of those Engines draws the whole, they will take waggon s enough to draw more people than are here. We call the waggon in which they have the fire and water a Locomotive: I have rode on those waggons many a time so have our people here all or nearly all of them. Now if our cheif desires to construct such a road through your country we want you to agree that he shall have the privilege. You would have the benefit of it as well as other people.

We have another improvement that I wish to speak to you about, it is called a Telegraph. We may possibly desire to make such an improvement through your country. We set posts into the ground 15 or 20 feet high, and as far from here as that house; when the posts are set we place a wire on the top about as big as that; this wire extends as far as we wish to make the road if it is 100 or 1000 miles.

If my brother is at Oregon City and desires to speak to the Great Cheif he speaks to him if the wires extend that far; the man at the other end of the land will know what he says as quick as I who stand beside him; if the instrument which is attached to this wire should be in your country and a man should steal your horse, and you desired to send word to the Willamette Valley, you would tell this man and he would work the machine and the man in the Willamette would understand you had lost a horse, and before the theif could reach there they would know it, arrest him before he came. You may not understand them now, but when you know as much as the white man you will.

Now as we give you the privilege of traveling over roads, we want the privilege of making and traveling roads through your country, but whatever roads we make through your country will not be for your injury.

I told you yesterday I would explain to you another Reservation, but that Reservation is for the people who live below here; there are but few of them here; and as I expect to hold a council with them when I return, and as that Reservation does not particularly interest you, I need not explain it now.

Now I want you all to talk among yourselves and think about what has been said to you, and I want you to think of it like men. When you think of it if you say that what we have said is good and that you receive it, you can express it to us and we can soon write out the Treaty.

You are now tired, you have been long sitting, you know our hearts, and if there is anything you do not fully understand before you make up your minds come and inquire and we will explain. If any of you wish to speak now we will listen to you. Or if you can make up your minds so as to give us an answer this evening come and do so and we swill be ready to receive it.

Stachas Said. My friends I wish to show you my mind, interpret right for me. How is it I have been troubled in mind? If your mothers were here in this country who gave you birth, and suckled you, and while you were sucking some person came and took away your mother and left you alone and sold your mother, how would you feel then? This is our mother this country, as if we drew our living from her.

My friends, all of this you have taken. Had I two rivers I would be content to leave the one and live on the other.

I name three places for myself, the Grande Ronde, the Touchet towards the mountains and the Tucannon.

That is all I have to say.

After a long pause—

Gov. Stevens Said. My brothers, if you do not feel inclined to speak today, we will come together again tomorrow.

We want the cheifs and the people to speak freely as Stachus has done. We will think of what Stachus has said. We could give our reasons now but we are all tired. We will tomorrow after you have spoken, state what we think. Come early in the morning and let us see if we cannot agree before night.

The Council is adjourned till 9 o'clock tomorrow.

Five Crows Said. I am as it were without thinking yet. I require time to think and then I will answer.

Council then adjourned at 4 1/2 P.M.

Thursday, June 7th.

Council met pursuant to adjournment - at 12 o'clock - Present as before.

Gov. Stevens. Said. My brothers we expect to have your hearts today, let us have your heart straight out.

Lawyer Said. My friends you have been speaking to me a poor people. This Earth is known as far as it extends. This earth has red people on it and it has had as far as it extends. The people are lost, they don't think whose talk has come to us poor people. On the other side of the big water there is a large country. We also know that towards the east there are a great many different kinds of people: there are red people and yellow people and black people, and a long time ago the people that travelled this country passed on the waters. And there is that country on that other side of the big water and

here is this on this side. On the other side of the big waters they have their laws. Yes, they have their laws there. We now hear the laws they have there, and we now know they have those laws there. We also know the white people pass about on the waters as they wish to. I do not know what they find in travelling about on these waters or what they are hunting, whether it is timber, leaves, grass or what. It was the Spaniards in that direction that just travelled about in their ships, they were the ones who first discovered this country and it was in that way they travelled to look for things, in that way they travelled when they found this country; the red people that along the shores to the big waters, those were the people, and at this place they landed to see those poor people. At that place the red man started and run off, or a part of them did because they did not know the people who came to see them, and the rest came and met them, there is where the white people first placed their children when they first come into the land. From this country they took back samples of rich earth, of flowers, and all such things; they also reported that there was a country on the other side, and it was peopled and these people reported they had found a country. And it was known that there was a new country found. And one of the head men said. I knew there was a country there before. Columbus the discoverer said Can you make an egg stand on end. Although he tried he could not do it, he did not understand how, it fell over: then Columbus showed them all that he could make it stand, and he did it, he made the egg stand. After they saw it done they could all do it.

Those children that he had placed in this country among the red people, from them the blood ran on both

sides: that is when the laws come into this country to those poor people: there were a great many white people come back to that place; that is the reason the red people travelled off further and from that they kept still travelling on further as the white people came up to them and this man's (Delaware Jim) people are from the same people: they have come till they are here to us now, and from that country some central part came Lewis & Clark, and that is the way the white people travelled and came in here to my forefathers. Where they came into our country they named that stream Kooskooski: it was then they knew us poor people. They passed through our country and knew all our country and all our streams, and on their return my forefathers used them well: as well as they could.

From the time of Columbus and from the time of Lewis & Clark we have known our friends: we poor people have known you as brothers although we were a poor people, a people knowing nothing when we first saw the white cheifs Lewis & Clark. From those poor people there were some of them that started in that direction (east) and of these there is only one now living (Spokane Gerry) they want to be taught, they returned after they could see a little and told us about the Great Spirit: they told us the laws for the poor people; they had seen and heard them. My Chief said our old laws are poor, the new laws we are getting are good laws, are straight. We said there were these laws, the laws of the Commandments; our old laws the laws of our forefathers and the new laws we are getting shown to us there were laws and those laws should be sent to us.

Ellis our Chief spoke strait for the white people, the President has sent you here to us poor people. Yes! the

President has studied this and sent you here for our good. That is the reason I said on Monday use us well my Chief we are a poor people.

The Governor has said the President has sent him to take care of his children: it was you that had spoken thus my brothers (Gov. Stevens and Gen. Palmer) I want the President to see what I a poor man has said. I have got your talk here (pointing to his note book) and although a poor man I can look at it from time to time. I can take care of that; my brother, we have been talking a long time and are all tired.

I think on the stream just below where Mr. Craig lives will be a good place for one mechanic or/on one of the ranches you have shown me. I also think/that perhaps in the country where I live may be good place for some more of them, in case they were crowded below it would be a good place where I live.

Now my friends I have spoken; those things that have been talked of, you know, I have shown you my heart. You have said to them all you had to say. I have also given you all I had to say.

Then my friends I have spoken; those things that have been talked of you know. I have shown you my heart. You have said to them you have said all you have to say. I also have said also all I have to say.

You spoke of a road through my country (the Reserve) it is a bad country, to make roads in, but perhaps it may go through, that is the reason I think we have both talked. 'Tis all our talk. Our Father Chief has said take care of one another. There is no reason that I should speak long although I have more to say. That is the reason I say take care of us well: that is all I have

to say at this time, my brethren. I will have one word more to say when we are about to part.

Gov. Stevens. We have the heart of the Nez Perces through their Chief, their hearts and our hearts are one. We want the hearts of the other people through their Chiefs.

Young Chief. Us Indians are blind the reason we do not see the earth well, the Lawyer sees clear. The reason that I do not know anything about this ground is I do not see the offer you have made us yet. If I had the money in my hand then I would see: the country is very large is the reason this land is afraid. I wonder if this ground has anything to say: I wonder if the ground is listening to what is said. I wonder if the ground would come to life and what is on it: though I hear what this earth says, the earth says, God has placed me here. The earth says, that God tells me to take care of the Indians on this earth; the Earth says to the Indians that stop on the Earth feed them right. God named the roots that he should feed the Indians on: the water speaks the same way: God says feed the Indians upon the earth: the grass says the same thing: feed the horses and cattle. The Earth and water and grass say God has given our names and we are told those names: neither the Indians or the Whites have a right to change those names: the Earth says, God has placed me here to produce all that, grows upon me, the trees, fruit, etc. The same way the Earth says, it was from her man was made. God on placing them on the Earth during then to take good care of the earth and do each other no harm. God said. You Indians who take care of a certain portion of the country should not trade it off unless you get a fair price.

I am as it were, blind. I am blind and ignorant. I have a heart but cannot say much, that is the reason the Chiefs do not understand each other right. They stand apart. Although I see your offer before me I do not understand it: Lawyer understood your offer and he took it I do not understand it and I do not yet take it: I walk as it were in the dark and cannot therefore take hold of what I do not see. Lawyer sees and he takes hold. When I come to understand your proposition then I shall take hold. I do not know when. Tis all I have to say.

Five Crows said. I will speak a few words. My heart is just the same as the Young Chief.

Gen. Palmer. We know no chief among the Walla Wallas but Pe-pe-mux-mux; if he has anything to say we should be glad to hear it.

Pe-pe-mux-mux. I thought these Indians were all the same as one, all alike (addressing the Indians he said). Why do you speak to one another? Listen to me. That is the way with your Chiefs, you white people. When you show us something then we think it good, treating us as children, giving us food. I do not know what is strait. I do not see the offer you have made to the Indians. I never saw these things with my father. My heart cried very hard when you first spoke to me, the same as if I was a feather. I flew, then I thought the same as if you were talking to a feather. I thought what will I do? I have seen everything on both sides of the river. You are all talking together, we are all talking together. If you were to separate as we are now and appoint some other time we shall have no bad minds. Stop the whites from coming up here till after this talk,

not to bring their axes with them, the same as if I saw my heart above.

I hope the president will not think I say or mean anything bad, there is no difficulty in sending letters about; this that I have said to you I do not know in what light you have taken it, whether I have spoken straight or wrong. The whites may travel in all directions through my country we shall have nothing to say to them providing they do not build houses on our land. Now I will speak about Lawyer.

I think my friend has given his lands, that is what I think from his words. You hear both of you what I say - it is only that I request another meeting, whenever it shall be. It is not only by one meeting that we can come to a decision. I have listened to you in a friendly way. If you come again with a friendly message from the President I shall see them at this place, tomorrow I shall come to see you and towards evening I shall go home. You have spoken to us in a friendly way and I speak to you in the same way, slowly. Gov. Stevens and Gen. Palmer I cannot give you a direct answer, perhaps you will not think well of my words. I beg you will leave me in this way for today. Tomorrow I will give you answer. I do not know; that is all I have to say.

Gen. Palmer. I wish to say a few words to these people, but before I do so if Kam-i-ah-kan wishes to speak he can do so.

Kam-i-ah-kan Said. I have nothing to say.

Gen. Palmer. I would inquire whether Pe-pe-mox-mox or the Young Chief speaks for the Umatillas. I wish to know if they are of the same heart.

Owhi. I have nothing to say about this land today. God gave us day and night, the night to rest in and the day to see, and that as long as the earth shall last, he gave us the morning with our breath; and so he takes care of us on this earth: and here we have met under his care. Is the earth before the day or the day before the earth. God was before the earth, the heavens were clear and good and all things in the heavens were good. God looked one way then the other and named our lands for us to take care of. God made the other. We did not make the other, we did not make it, he made it to last forever. It is the earth that is our parent or it is God is our elder brother. This leads the Indian to ask where does this talk come from that you have been giving us. God made this earth and it listens to him to know what he would decide. The Almighty made us and gave us breath: we are talking together and God hears all that we say today. God looks down upon his children today as if we were all in one body. He is going to make one body of us: we Indians present have listened to your talk as if it came from God.

God named this land to us that is the reason I am afraid to say anything about this land. I am afraid of the laws of the Almighty, this is the reason I am afraid to speak of the land. I am afraid of the Almighty that is the reason of my hearts being sad: this is the reason I cannot give you an answer. I am afraid of the Almighty. Shall I steal this land and sell it? or what shall I do? this is the reason that my heart is sad.

I love my life is the reason why I do not give my lands away. I am afraid I would be sent to hell. I love my friends. I love my life, this is the reason why I do not give away my lands. I have one word more to say.

My people are far away they do not know your words, this is the reason why I cannot give you an answer now. I show you my heart, that is all I have to say.

Gov. Stevens. Now will Kam a ah kan and Skloom speak.

Kam-a-ah-kan What have I to be talking about?

Gen. Palmer. We have listened and heard your Cheifs speak. The heart of the Nez Perces and ours are one. The Cayuses, the Walla Wallas and these other people say they do not understand us. We were in hopes we would have but one heart. Why should we have more than one heart? The Young Chief says he does not see what we propose to give them. Pe-pe-mox-mox says the same. Can we bring these saw mills and these grist mills here on our backs to show these people? Can we bring these blacksmith shops, the wagons & tools on our backs to show them at this time? Can we cause farms of wheat and of corn to spring up in a day that they may see it. Can we build these school houses and these dwellings in a day? Can we bring all the money that these things will cost that you may see it. It would be more than all the horses of any one of these men could carry. It takes time to do these things. We come first to see you and make a bargain. We brought but a few goods with us to give you but whatever we agree to give you you will get.

How long will these people remain blind. We came to try to open their eyes they refuse the light. I have a wife and children, my brother has also a wife and children. I have a good home, fields of wheat, potatoes, oats, peas and beans. Why should I leave them and come so far to see you? It was to try and do you good

but you throw it away. Why is it that you do so? We all sometimes do wrong. Sometimes because our hearts are bad, and sometimes because we have bad council. Your people have sometimes done wrong. Our hearts have cried. Our hearts still cry, but if you will try and do right we will forget it. How long will you listen to this bad council and refuse to receive the light?

I too love the earth where I was born. I left it because it was for my good. I have come a long way. We ask you to go but a very short distance. We don't come to steal your lands, we pay you more than it is worth. Here in this little valley and the Umatilla valley that affords a little good land, between these two streams and all around it is a partched up plain. What is it worth to you or to us? Not one half of what we have offered for it. Why do we offer you so much? It is because our Chief has told us to take care of his red people. We come to you with his messages to try and do you good. You throw his words behind you. Why do you do it? because you have listened to bad council.

I told you the difficulties that existed between the whites and the Indians beyond the mountains. If the whites and the Indians live together here as they did there, it would be the same. Our Chief knows this and he sent us here to see you and to talk with you, this we do before there are many whites here.

Pe-pe-mox-mox says "let us part and appoint another day". Before that day would arrive we might have a great deal of trouble. Gold has been found in the country above yours. Our people are very fond of it. When our people hear this they will come here by hundreds, among these who come there will be some bad people, those bad people will steal your horses and

cattle. There are but few of you, you cannot prevent it when you are scattered over a great extent of country, you cannot prevent it: but if you are living in these reservations we can protect you and your property. Then why should you refuse to receive our talk and refuse to allow us to protect you? Your refusal to receive it is not such talk as should come from Chiefs desirous of promoting the interest of their people. I want you to think more of this tonight and if you act like wise men I think you will arrive at a different conclusion.

We expect to perfect the arrangements with the Nez Perces perhaps tomorrow. We have but one heart, we expect it will always remain so. We want the Walla Wallas, the Cayuses and the Umatillas to unite with us and have but one heart: we want you to stop your ears against bad council and receive that which is good. We do not come among you as traders we come bearing the words of our Great Chief. If you refuse to receive it our hearts will be sad. Our hearts will be sorry for these chiefs for we like them. Our hearts will be sorry and bleed for all these old men. Our hearts will be sorry and bleed for these young men. Our hearts will be sorry and bleed for these women and children.

We want to help you to put food into your lodges and homes. We want to help you to get clothes and blankets to cover you from the storm; we want to help you to get arms and ammunition to kill game; we want to open your eyes and give you light that you may see. We want to make you a good people.

Will you receive our talk or will you throw it behind you. My heart will be glad tomorrow if you come and say we are all of one heart.

What I have said is for your good: think of it. I have nothing more to say.

Cam an pello It is true you have mercy on us. I think it is true what you have been saying: if you were to send me into a mountanous country still I would say you have mercy on us. What would I be glad for? I was glad to hear the first talk by the Governor, that was the reason I was glad to hear what they said. I would be very glad if he had said to me stop over on one side, then I would be glad.

What would I be glad about if I were to take a thing and throw it away? That is the reason my heart cries. If you would show me fine lands and I were to see them then I would be glad and go to them. How do you show your pity by sending me and my children to a land where there is nothing to eat but wood? That is the kind of land up there, that is the reason I cry. Look at my hands! An old man. I have but them by hard work: then I ask myself have I labored in vain? what have I to be glad for?

The white man first showed me and aided me in making my garden and every mile I have been laboring. Will God think nothing of the labor I have bestowed on my garden? Do you do this to me in pity? I am really pitiable and therefore I pray night and day till I am tired. I have no books. The missionaries told me if I had no books I had a book in my heart which enabled me to pray to God. They told me in taking water to drink I should think of God, this I have not learned of myself, it is what they have taught me and I keep it. The laws of God are not alone for you, they are for me as well.

Woa-lish-wam-pum I have got only two thing to say. I have listened to your speech without any impression. I did not understand it. I know this. We are the same. You have life and breath you white people; we red people have life and breath. I think the old laws are straight, that they should still exist.

The Nez Perces have already given you their land. You want us to go there. What can we think of that? That is the reason I cannot think of leaving this land to go there. Your words since you came here have been crooked. That is all I have to say.

Gen. Palmer. I desire to say a few words in reply to Cam an pello, he says he "is an old man, he has worked hard in his garden." We have said that any man who has a garden or a field and who left it to go to this reservation should have as much improvement made there for him, or be paid for it in money as he chooses. We will go farther and say he shall have a better improvement: it shall have a better fence, be ploughed well. We will not take them there to starve, they shall live better than where they are and if there is not good land enough in the reservation to make them farms we will make it larger.

Gov. Stevens Said. Although you are all tired, my friends, I must say a few words. My Brother and myself have talked straight. Have all of you talked straight? Lawyer has and his people have. And their business will be done tomorrow.

The Young Chief says he "is blind and does not understand, What is it that he wants?

Stickuss says his "heart is in one of the three places, the Grand Ronde, the Touchet and the Tu-kan-on".

Where is the heart of the Young Chief?

Pe-pe-mox-mox "Cannot be wafted off like a feather." Does he prefer the Yakama reservation to that of the Nez Perces"? We have asked him before, we ask him now—where is his heart?

And Kam-a-ah-kan the great Chief of the Yakimas has not spoken at all. His people have had no voice here today. He is not ashamed to speak—he is not afraid to speak—then speak out.

But Owhi is "afraid lest God be angry at his selling his land". Owhi, my brother I do not think God will be angry if you do your best for yourself and your children. Ask yourself this question to night. Will not God be angry with me if I neglect this opportunity to do them good? Owhi says his people are not here. Why did he promise to come here to hear our talk. I do not want to be ashamed of Owhi. Owhi has the heart of his brother Teayass and his people; we expect him to speak straight out.

We expect to hear from Kam-a-ah-kan from Skloom. The papers we will have drawn up tonight. You can see them tomorrow. The Nez Perces must not be put off any longer, their business must be dispatched.

I hope the hearts of all the others and our hearts will agree. They have asked us to speak straight, we have spoken straight. We have asked you to speak straight, but we have yet to hear from you.

Gen. Palmer This man (How-lish-wam-pum) says the reason he does not want to go to the Nez Perces' country is that they have given it to us. If he and his people go on that Reservation it will belong to them as

much as to the Nez Perces. They will all be served alike, every man will have his farm, it will be his.

Pe-pe-mox mox says we have met as friends let us say nothing that is bad, let us part friends. We have been friends a long time". I hope we shall always remain friends and as brothers. When we part we will part as friends. Then let us act as friends and as wise men.

Five Crows Listen to me you Chiefs. We have been as one people with the Nez Perces heretofore; this day we are divided. We the Cayuses, Walla Wallas, and Kam-a-ah-kans people and others will think over the matter tonight and give you an answer tomorrow.

Owhi Kam-a-ah-kan is the man who is to speak about these lands. I have nothing to say about them. We will settle the matter among ourselfs.

Gen. Palmer We have heard what Five Crows has said. We want all this people to have one heart, they ought not to have two hearts. Our Great Chief looks upon them all as his children and I hope you will think on what is here said to you.

Gov. Stevens My Friends, we will meet in the morning again, we have to get through the business of the Nez Perces so that they may get home, they have a long journey before them. We shall meet as friends I hope. Your hearts and ours will be united I trust. We want every person to come early. If any person wishes to speak, speak now or otherwise we shall meet in the morning.

Council met at

Gov. Stevens Said. My friends, judging from your faces, I think you see your way clear. The paper of the Nez Perces is nearly ready and soon will be read to them. We expect that the Young Chief, that Pee-Pee-mox-mox and Kamiakan will speak now, and we hope that with them the business may be concluded today. Let us know what they want, we are here for that purpose.

The Young Chief Said, We have been tiring one another for a long time. We did not know our hearts, we did not understand each other on both sides, about this country. We have so many horses and cattle in this country is the reason we were troubled. Your marking out this country is the reason it troubles me so and has made me sit here without saying anything. You Americans, your forefathers are dying in your own country, as many of your people are wealthy in stock it requires a large tract to keep them. Those that have large bands of cattle marks each one a tract for himself. The reason why we could not understand you was that you selected this country for us to live in without our having any voice in the matter. We will think slowly over the different streams that run through the country, we will expose the country and think over it slowly. I cannot take the whole country and throw it to you. If we can agree this country will furnish food for the whites and for us. The whites and ourselves will be compelled to have equal privileges in getting timber from the mountains to build our houses and fences; then we shall love one another. The good of you white people is foremost, the bad is behind, it is the same with us. You embraced all my country, where was I to go, was I to be a wanderer like a wolf. Without a home,

without a house I would be compelled to steal, consequently I would die. I will show you lands that I will give you, we will then take good care of each other. The reason for my uneasiness is for my stock which is running all over the country. Perhaps we will be compelled to divide with our stock, one taking one way the other another way, perhaps out there (pointing South) it would be well to draw a line to divide us. This is the reason why I think we should stop a while that we may come to an agreement. We will see when you make another offer whether we can agree to it. Wait, we may come to an agreement when we see your offer, if any people come send good people; those of the settlers who are here now it is well they should stay. I think the land where my forefathers are buried should be mine; that is the place that I am speaking for. We will talk about it, we shall then know, my brothers, that is what I have to show to you, that is what I love the place we get our roots to live upon (meaning the Grand Ronde). The Salmon comes up the stream–that is all.

Gen. Palmer Said: My brothers, when we quit talking yesterday your minds were very much troubled, you were unwilling to go to the Nez Perces reservation. We have thought of your words. The Nez Perces have a great many horses & cattle, you too have a great many horses & cattle, perhaps you might not agree together quite so well; your people appear to be much divided where to go. We asked you to give us your hearts and tell us where it was, the Young Chief (We***) has given us his heart, the Grand Ronde Valley. We have thought of the Umatillas. Many of your people died there. It is a good country for your horses and cattle. We desired first to have you go all to one place, but to show you

that we wish to do you good I will make you another proposition. I propose to designate for the Cayuses, the Walla Wallas & the Umatillas--To commence on the Columbia river (this is the Columbia river (pointing to the map) this is the Umatilla river, this is the Agency, this is McKay's place, this is Wild Horse Creek. Now I propose to select a reservation commencing at the mouth of Wild Horse Creek and running up this creek to the mountains to the head waters of Hou-te-nic Creek, now down that creek till you strike Mr. McKay's claim, now across from his claim to the Umatilla river, then up to the mouth of the Wild Horse Creek, leaving Wm. McKay's claim out of the reservation. This will include all your farms, your houses and gardens within the reservation. You will have sufficient grazing for your stock and land to make farms but your stock will have the privilege of grazing on any lands not claimed by the whites. If the whites should settle near to the reservation their stock might sometimes go onto the reservation while yours might go off it; if they should do so we would not want you to quarrel about it. We would build at suitable points on the reservation a saw-mill and a flouring mill; we would employ millers to attend them for you for twenty years, and by that time you would be able to attend them yourselves. We will have a blacksmith shop and employ a blacksmith for 20 years; we will have a plow and wagon-makers shop and employ mechanics for that for twenty years; we will have a carpenter and cabinet makers shop and employ mechanics for that for 20 years – we will have at least two school houses and employ teachers for at least 20 years; we will build a hospital and furnish a doctor and medicines for twenty years; we will build a good house for Pee-Pee-Mox-Mox, and a good house for the Chief of the Cayuse; we will build a house for

Pee-Pee-Mox-Mox's son, we will plow and fence ten acres of land for Pee-Pee-Mox-Mox; we will plow and fence the same for the chief of the Cayuses; we will plow and fence five acres for Pee-Pee-Mox-Mox's son; we propose to do more for him and for his son because he leaves his country and goes to another place. We will give him as soon as he goes down to the Dalles for it $500, in money - we will give him 3 yoke of oxen, wagon and two plows - we also give him some other things which it is not necessary to mention. We give him a salary and also the chief of the Cayuses of $500. a year, in money, this to continue for 20 years - the same as is to be given to the Lawyer, the head chief of the Nez Perces. We give these salaries because they are the head chiefs, and are expected to labor for the good of their people, and in the event of the death of the head chief their successors get the salaries. Now in addition to these things we will expend fifty thousand dollars in the first and second years after the treaty is ratified. This money is to be expended in building houses, opening farms, buying teams and wagons and paying persons working for them, and in any way that the President may deem best calculated to promote their interests. In addition to this there will be expended for you eight thousand/dollars every year for five years, for the next five years six thousand dollars a year, the next five years four thousand dollars a year, for the next five years two thousand dollars a year -- this makes twenty years, and the amount to be expended one hundred thousand dollars ($100,000). This amount will be expended as the President may direct; we should consult you every year as to how you wanted it paid -- part in money -- part in goods. You will not be required to go onto this reservation till our chief the President and his council sees this paper and

says it is good; and we build the houses, the mills, and the blacksmith shop. But we want you to allow the white people to come and settle in the country anywhere outside of the reservation. The President will have this reservation surveyed and marked off, so that every man that has a piece of land will know which is his. You will be allowed to go and catch fish and dig roots the same as the whites; and if any of our people do wrong to you you are not to shoot them, but to go to the Agent. We expect the chiefs to restrain their young men from doing wrong. We have a few goods here for you, those that we give you will be in addition to these payments, we charge you nothing for them. I have given you now my heart; I have offered you more than your country is worth – more than you know how to count. How long will it take you to decide? I f you say it is good the papers can be arranged tonight, tomorrow they can be signed; we would then give you these goods and you could go home with a good heart. We have been here a good many days talking - we are all tired; we commenced far apart; it is for you to say now whether we shall come together. This I say to the Cayuses, the Walla Wallas & Umatillas - those people are all interested; Pee-Pee-Mox-Mox being the first chief I want to hear from him. I have nothing more to say.

Pee-Pee-Mox-Mox said – The young chief has nothing more to say; he has said all he had to say, as if it was I that put obstacles in the way. Our hearts should not be otherwise than one. I have already spoken all that I have to say – I and Gen. Palmer this morning. They have already written all that we have said. I spoke this morning about having a little house, a place to sell my cattle on the other side of the Columbia where my

cattle range for a trading post when the Americans pass. I have nothing to talk about; I have only a few words more. I said to Gen. Palmer that I desired permission to get fish there while I lived; when I learn that the house is made, (meaning the reservation) then I shall go there: when we have settled all things then you have your presents for these Indians. Now that we have made up our minds if you think proper you may give us some provisions; sometime tomorrow in the afternoon we will go home; you are now tired - that is all I have to say.

Gen. Palmer Said: - That we have agreed that Pee-Pee-Mox-Mox shall have the privilege of building a house at the mouth of the Yakima and catching fish for five years. I should like to have all the chiefs and head men of the Umatillas, Cayuses and Walla Wallas and also the name of every man on this paper that the President may see every man's name and know that they have given their consent.

Gov. Stevens Said: – My friends. I am glad Looking Glass one of your chiefs is coming, he is a friend of Kamiakun; we have now got nearly round the circle; our hearts are almost together; I call upon Kamiakun to say whether we shall get entirely around. My friends, Looking Glass is close by: –he has come way from the Blackfeet - the buffalo country across the mountains; there is war; here is peace and friendship let his first glance be upon you sitting here; when he is close by two or three of us will go and take him by the hand and set him down by his chief in the presence of his friend Kamiakun. Let us now have Kamiken's heart.

Kam-i-ah-kan Said: The place that I am from there are but few Indians—all have gone to the Calapooya country. Some are at Nisqually and some at Taih—that is the reason I have deferred speaking till I see my Indians. I wish the Americans to settle on the wagon route; we do not confine them to the road; they may settle about the road so that the Indians may go and see them. I do not speak this of myself it is my people's wish. Owhi and Teias and the chiefs. I, Kamiakan do not wish for goods myself. The forest knows me, he knows my heart he knows I do not desire a great many goods. All that I wish is for an Agent, a good Agent who will pity the good and bad of us and take care of us. I have nothing to talk long about. I am tired, I am anxious to get back to my garden. That is all I have to say.

Joseph, Nez Perce: These are my children (looking around). I see them all sitting there: talking slowly is good. It is good for old men to talk straight; talk straight on both sides and take care of one another. It is not us, it is those of our children who come after us. It is good for the old people to talk together good and straight on account of our children on both sides to take care of each other till the last day, without speaking I am going. It is not anything bad that I am thinking that I am going without speaking, no, it is not anything bad, it is a place to live, a place for our good to live there. Think for year after year for a far way ahead. I wonder what you think if I could see your thoughts. It is not that there is anything bad that I speak. I hear you speaking to my children, and they have many hearts. I am going without talking and you don't know my talk. At the Grand Ronde I saw my children on both

sides; we have been talking and finished your talk; this is all I have to say.

Gov. Stevens Said. If anybody else wished to speak we shall be glad to hear them.

Red Wolf Said: I have only one or two things to speak: - I want Mr. Craig to stay there in the Nez Perce country, and not go away. The reason why I wish Mr. Craig to stay there is because he understands us - he speaks our language well; when there is any news that comes into the country we can go to him and hear it straight; the same for us when anybody comes to speak to us he will sit down with us and we understand them. It is good for him to stay there to interpret on both sides so that each can understand the other.

Gov. Stevens said: We wish to hear from Scloom, one of the Chiefs of the Yakimas.

Scloom said: What I have to say is about this the earth; It is long since the earth was made and the trees were made to grow out, and there was one there, a very small boy, I do not know what he knew but he took an axe and cut a tree, and marked it as if he has made a watch, he went to the tree and looked up and saw a star, he took a line and measured the land from that tree; all the land he had measured he plowed; about half way on the line he threw the tree across. For this country that he had plowed up he got $800 for each mile: That is the reason the Indians like the place where they have their gardens; for the reason there was such a price paid for them; the land uncultivated where there are no gardens is not worth so much, it might be sold for $40 a mile. Why should I speak a great deal? We are not bargaining for lots; you know

your own country above, you select your piece of land and pay a price for it. There it is the same and have choice. My friends, I have understood what you have said; when you give me what is just for my land you shall have it. This is all I have to say.

Gov. Stevens Said: I have a word to say in answer to the remarks of Skloom. Proposals have been made for the lands of the Yakimas and their neighbors; a place has been pointed out for the Indians to live in; outside of this place the gardens and farms are to be paid for in money at a fair value. The price paid will probably be a good deal more than the price he has mentioned for those gardens. I say to Skloom, we do sell good lands for eight hundred dollars a mile, but not in this country. We do not expect to sell any of this land. Skloom probably knows that. I ask Kamiakan and I ask Skloom, make your own propositions. I also say to Owhi, let us know what you think your lands are worth and where you want your home. We shall meet again in the morning, I want Kamiakun and his chiefs to make their own proposition. Looking-Glass is coming. We shall meet tomorrow morning.

Saturday, June 9th

The Council was opened at 2 o'clock P.M. when Gov. Stevens Said

My Friends, Today we are all I trust of one mind. Today we shall finish the business which brought us together. Yesterday the Yakamas had not made up their minds fully. Today they and ourselfs agree; the papers have been drawn up. A paper for the Nez Perces: they live on one Reservation. A paper for the

Walla Wallas, Cayuses and Umatillas, they have their Reservation on the Umatilla. And a paper for the Yakamas, they have their Reservation. These papers engage us to do exactly what we have promised to do.

My brother explained yesterday to the Walla Wallas, Cayuses and Umatillas what would be given in their paper. It has been given to them in the paper.

In the paper for the Yakamas we have included the tribes who acknowledge Kam-i-ah-kan for their head chief. The Pisconse, the Swan-wap-um and Palouse, the Yakamas, and all the Bands on the Columbia below the Walla Walla down to the White Salmon River. They have their reservation and fishing stations which they well know and which I understand is satisfactory.

The Nez Perces have their reservation as was shown them in council and in the paper everything was set down which was promised them. They all know what was said.

The money, the payment intended for the Nez Perces, the Walla Wallas, the Cayuses and Umatillas has been divided. We have given two parts or a $150,000 to the Walla Walla, Cayuses and Umatillas, We have given the Nez Perces three parts or $200,000.

In the Yakama reservation we have not placed as many tribes as we expected. We have thrown out the Okan-ah-gaus and Colvilles and the Tribes below the White Salmon. Their numbers are about the same as the Nez Perces. We have given them the same amount. There is the paper for the Nez Perces (holding it up), here is the paper for the Yakamas. My brother will show the paper for the Walla Wallas, the Cayuses, the Umatillas.

It is stated first in all the papers the Indians who signed the paper. then your lands are described. We have got the descriptions from yourselfs. Then your reservations are pointed out, those you all know.

You will not be called according to the paper to move on the Reservation for two or three years: then is secured to you your right to fish, to get roots and berries, and to kill game; then your payments are secured to you as agreed; then your schools, your shops, and physician and the other things we have promised you are secured; then the salaries, the houses and the ten acre farms of your chiefs are secured to him.

Then there is another article if any of you get into debt then payments cannot be taken for your debts, every Indian must pay his own debts.

Then you promise/next to be friendly with other tribes and the whites.

Last you are to drink no whiskey and do all you can to prevent others doing it: and also those who drink whiskey will not be paid their annuities.

I have thus given the substance of the different Treaties. Shall it be read over in detail? You have already heard it not once but two or three times. It can be read over Article by Article and the Interpreters can state to you whether it is what you are promised. If there is anyone present who wishes to speak let him do so before we go on with this business. Let Looking Glass speak.

Looking Glass said. I am now going to speak. From those who have been speaking, they have been listening to us from above and from the ground. A long

time ago the Great Spirit spoke to my children. I am from the body of my parents and I set on a good place. The Great Spirit spoke to his children the Laws, will track on the ground strait and after that there have been tracks on my ground and after that the big Chief, the President, his ground was stept on in the same way and for that reason I am not going there to trouble on his grounds and I do not expect anyone to tramp on mine.

I have great respect for my friends, he sees your eyes and your hearts, and that is the reason all this people are his children. Why do you want to separate my children and scatter them all over the country? I do not go into your country and scatter your children in every direction.

It is for me to speak for these my people my children, that is what I say. The Big Chief speaks to his children and I also speak to my children and tell them what to do: and that is what we are talking about: you see where the sun is. I never go where the whites are and mix with them and talk with them.

I am already named from above, by the Supreme Being, my heart is with the country. I live upon and head, that is the reason my heart tells me to say where my children shall go. I want you to look well to what I have shown you.

I want to know if an Agent will stay up in my country?

Gov. Stevens As long as there are people.

Looking Glass Will the Agent be there that long to keep the whites from pushing into our country?

Gen. Palmer said. Certainly.

Looking Glass. It is not for nothing I am speaking to my chiefs, it is to talk strait, it is just as if I were to see the President and talk to him it would be straight, that is just what I want, that you talk straight from the President. Look at my talk. I am going to talk straight. When I hear your talk it goes to my heart. I am not like those people (pointing about) who hang their heads and say nothing. We will have a short talk, not a long one. (after a silence of a few minutes the)

Young Chief Said. That is the reason I told the Governor to let it be till another time, till we know what the Looking Glass would say. I heard that Looking Glass was coming.

Governor Stevens I will say to the Young Chief, let Looking Glass have time to think, he is thinking now in order that he may speak, he will speak straight and from his heart. We will wait now till we have heard Looking Glass speak.

Looking Glass. The line of the Cayuse Reservation will be where the trail crosses the Walla Walla, thence in a straight line to the Umatilla below Wm. McKay's house, from thence north of the butte, straight to John Day's River. The reason why that shall be the line is that they want more room for their horses and cattle. (After a pause of a few moments he continued) By what time will you build the mill?

Gov. Stevens The year they move on, when the President approved the Treaty.

Looking Glass Yes! Now we will talk. We have talked before. You said you would send this talk to the

President and if he says yes, then it is right. Yes. And I will listen to what the President says and if he says yes, then we will talk.

Billy. I thought we had appointed Lawyer our head Chief and he was to do our talking, that is the reason why I have spoken.

Gov. Stevens. I will say to my brother the Looking Glass that everything we say and do is sent to the President. What Looking Glass has said and what I say now goes to the President, but can I send anything to the President unless you agree to it? Can the President act? We have met that we may agree upon something then it goes to the President. The Prest. has sent me and my brother to make this very agreement. We must agree upon something then it goes to the President and if he thinks it is good then he approves of it. I ask L. Glass to look upon it and see that it cannot be done any other way.

Gen. Palmer. Our great Chief, the President, directed me and my brother to come here. We have been here 19 days, we have been talking a great deal. That talk has been for your good. We came here to talk straight, we have shown you our hearts, we will not lie to you. Yesterday we made a bargain with the Cayuse the Walla Wallas and the Umatillas and the day before with the Nez Perces. The Looking Glass was not here but we did not forget him. We know that when he understands it all he will say yes. This morning we made a bargain with the Yakamas, they with these others all say yes. We have told these people and it is so said in the paper that their horses and cattle would be allowed to graze outside of the reservation the same as our people when it was not occupied by whites. If we

change the line to where he says we would have to stay here two or three days more to arrange the paper. We are all tired. You are tired. Shall we say one thing today and another thing tomorrow?

They have said yes! My heart says yes to the line that was shown yesterday and today. All things will be done as we told you. Shall we do so. My heart says yes. I have nothing more to say.

Looking Glass. Yes! Let it be so.

Eagle from the Light. When I spoke to you before I said that I should speak slowly and I have been thinking about what to say, but I don't know yet what to say. These people have been talking among themselfs as though there was two and when I heard what they had to say I said very well: let us go as two.

Looking Glass. What I showed these people when I came here. I spoke beyond it (referring to the map) and you have said that this talk you would send to the President and he will see it.

You see my body it is not divided, it is one body as these are all my children (pointing about). They have all got horses and cattle that is the reason I made it larger.

I want you to talk plain just like the light and then I will say yes. That is all I have to say now.

Gov. Stevens. I will ask of Looking Glass whether he has been told of our council. Looking Glass knows that in this reservation settlers cannot go, that he can graze his cattle outside of the reservation on lands not claimed by settlers, that he can catch fish at any of the

fishing stations, that he can kill game and can go to Buffalo when he pleases, that he can get roots and berries on any of the lands not occupied by settlers. He knows what the Reservation is: that we promise him two mills, a saw and a grist mill, two schools and a blacksmith; that we give him a physician, and all the other things that have been spoken of: the people all know it, it has been read over two or three times.

This Reservation is in his own country. I ask Looking Glass is not this talking straight? We send all this to the President and besides this we pay a certain sum of which you all know: we have been looking for him ever since we have been here: Lawyer will recollect that I have been enquiring when will Looking Glass come? We wanted him to come.

Those who go to the Buffalo are all my children. I am going to see the Blackfeet next moon. The Blackfeet had stolen some of his horses, but he got them back again. I heard the story last night. He killed some of their men. I know that Looking Glass wants me to go and make peace in that country. Let us first agree here.

Gen. Palmer.We buy your country and pay you for it and give the most of it back to you again.

Looking Glass. You have said to me that the whites shall not go over that line, none shall go into that country and this you said and it is said: And you will show to the President what we have said.

Gov. Stevens. I understand Looking Glass has consented with the other Chiefs. The papers are now ready to sign: here I will particularly speak to Kamahkan or the head Chief of the Yakamas. Are you ready?

Young Chief. What the Looking Glass says, I say.

Gov. Stevens. I ask you whether you are ready to sign? I stated that whatever the Looking Glass said and we said would go to the President. We agreed upon a line yesterday and the day before. The papers are drawn: we ask are you now ready to sign these papers and let them go to the President.

Looking Glass. That he said yes to his line.

Gov. Stevens. Looking Glass is satisfied with the Nez Perce line, the young Chief and Pe-pe-mox-mox yesterday agreed to the Umatilla reserve.

Looking Glass. I said yes to the line I marked myself, not to your line.

Gov. Stevens. I will say to the Looking Glass, we cannot agree.

Gen. Palmer. I would say to the Looking Glass, what use is it to purchase his country and give it all back again. We did not come here to talk like boys. We don't wish to part with a misunderstanding.

The Nez Perces, the Walla Wallas, the Cayuses and the Umatillas agree to the boundaries as we have marked. Do you wish to throw all we have said to you behind you. Shall we like boys say yes today and no tomorrow? Pe-pe-mox-mox, Young Chief and the Nez Perces say yes! None of their people say no! Why do we talk so much about it? I have done.

Young Chief. The President is your Chief and you do what he tells you. That is the reason the Looking Glass marked out the line he wanted: he is the head Chief.

Looking Glass. It was my children that spoke yesterday and now I come and hear them speak. I asked my children what was their hurry? They knew that I was coming. Why did they run and speak till I came: that is the reason I marked it bigger. I wanted to talk with you and have you talk to me. And after that. Your talk and my talk will go to the President.

Gen. Palmer I will say to my brother that I did not know that he was absent when we made our minds to come here, and set the time. My brother and myself come here and we come a long way. We have been here a long time. We were not in a hurry, these people wanted to go home, they had fields of wheat, and of potatoes, the weeds were growing up, they wanted to go home, there was no one at home to take care of the fields. We have other persons to see besides these.

My Brother has to go to the Blackfoot country and make peace. He wanted to say to them. You shall not steal these peoples horses: you shall not make war upon them: these are the reasons we talk. We talk because our Great Chief told us.

The papers have not been signed, they had not forgotten him nor had we. Shall all our efforts to protect them be destroyed? Shall our talk be thrown away? If the Looking Glass is a Chief I hope he will act as a Chief acts for the good of his people.

If we were to say yes to his line our Chief would say No!. but if we shall say the line we have marked we believe our Chief will say Yes. Which will you do, take that line or have it all thrown away? Let us act like wise men and not part without doing good for each other.

Looking Glass.I am not going to say any more today.

Gen. Palmer. If the Nez Perces are to ready they can talk among themselfs and come tomorrow.

If the Cayuses, the Walla Wallas and Umatillas are ready to do what yesterday they said they would then the paper is ready for them to sign, and tonight they can get their goods and go home when they please.

The paper is also ready for the Yakamas if they choose to sign it they can do so.

Gov. Stevens. The council will now adjourn till Monday morning and I trust by that time Looking Glass will have thought the matter over and we will be able to agree.

Monday, June 11th

Council opened at 11 o'clock.

Gov. Stevens said: My children, we have met today for the last time. Every man here present has agreed to a treaty in council. The Nez Perc'es agreed to a treaty. Not one man spoke against it. All agreed that the head Cheif would speak for you. You were all called upon to speak. I called upon Joseph to speak and he spoke: "I have a good heart," says Joseph, "what the Lawyer says let it be".

The Eagle-from-the light said, "the head cheif Lawyer had spoken so be it."

The Red Wolf said, "What the Lawyer has said be it so, he is our head cheif."

Said U-ute-sin-ma-le-kin "My cheif has spoken for me." Every man said, I say again, "Lawyer is our cheif." "I agree to the treaty." So said the Cayuses, the Walla Wallas, the Umatillas and the Yakamas. The Young Cheif and Stickuus said, "we pledged our words, we agree."

We all expect that you all will do what you promised to do. We don't believe you will break your word and make us ashamed of you. I don't believe we shall have to say to the President, "you have promised, and then broke your promise."

No! We know that you will keep you word. First the Nez Perces,--I shall call upon Lawyer the head chief, and then I shall call on the other chiefs to sign.

Will Lawyer now come forward. (he then came forward and signed the Treaty) Now I call upon Looking Glass and Joseph to sign the Treaty. (After they had affixed their names James and the other chiefs and head men put their names to it.)

Gov. Stevens: My Brothers, the Treaties have now all been signed. They will be sent to the President. All the speeches on both sides will be sent to the President. The President will see that everything has been fairly explained and agreed upon between us. He will see that you have all acted like men here. He won't find any fault even with Looking Glass.

Looking Glass came back after a long absents and asked time to look at the treaty. Time was given him to think it over. He was satisfied and we find his name next to his head chief's

I think the President will approve what we have done. We will let you know when we hear from him, which will be sometime next year.

We have some few presents to give you which will be distributed upon your leaving the ground. They are designed for those who need them most. You will dispose of them in that way.

Thenceforth you will have me for your Great Chief, Mr. Tappan for your Agent, and Mr. Craig for your Interpreter.

The Yakamas will have Mr. Bolon for their Agent. The Wallas, Cayuses and Umatillas will look to Gen'l Palmer hereafter.

There is another point which I wish to speak about from my heart. It is the Blackfoot Council. My brother, the Looking Glass, knows that we want peace on those Buffalo plains. You all know it. I think I can make peace there.

Nez Perces: Nearly one fourth of your people live there. I want some chiefs of courage and character, and one hundred of your braves to go to that council. I say to Lawyer, the head cheif, of the Nez Perce's, I would be glad to have him go, I would be glad to have Looking Glass go. Arrange this among yourselfs. I hope and trust that Mr. Craig will go with you.

The Cayuses, Walla Wallas, Umatillas, and Yakamas, I would like to have some of them also.

We shall have chiefs and braves from the Flatheads, the Cour de lains, Coo-too-mey's and I hope from the Spokanes. The Blackfeet have promised to meet you

there in Council and when we meet there will be peace among you. Think this matter over and decide for yourselfs.

Gen'l Palmer: My brothers, I wish to say a few words before we part. When we came here we didn't know the hearts of your people. We have been together a long time and have talked a great deal. We have listened to what you have said, and you have listened to what we have said _____you have sometimes been afraid that we were not working for your good. Your willingness to come forward and sign the Treaty is evidence that you have decided that we intended to do you good. We have shown you our hearts and you have shown us yours. We commenced a long way apart but now we are together. We are one. I hope we shall always remain as one and have but one heart.

From this time we expect that we and you will always be at peace. We not only want you to be at peace with all whites but we want you to be at peace with yourself. We didn't come here to divide you or to induce one to be against another. Why should you be at war with each other? You may live at separate places, but your hearts would be as one and help each other. The cheifs and old men should give good council to their young people. The young men should listen to the old men and be advised by them. The young people should strive to assist the old people. Take care of them. It is the duty of the old people when they see these boys act foolish to council them. It is the duty of all to take care of your women and children, furnish them with food and with clothing.

I say again! Take care of your old people, supply their lodges with provisions, for you will soon be old yourself and will need help.

We expect you will all leave this ground with good hearts and if there are any among you that have bad hearts, advise them to throw them away. If your people are foolish and do wrong it is your duty as chiefs to punish them for it. We shall try and prevent the whites from doing wrong to the Indians, and you must prevent your people from doing wrong to the whites.

The Treaty provides that if an Indian steals the property of the whites it may be paid for from the annuities. It also provides that if your people steal other tribes it will be paid for in the same way. We also provide that if the whites take the property of an Indian it must be paid for. The Agent who is the proper person to apply to in case an injury is done you and when any of your people do wrong to the whites, then it is the duty of the cheifs to punish the offender. If one does wrong to an individual he is not to redress his own wrong but he is to submit it to the chiefs or his council, or to the Agent and abide by their decision. It is to be hoped that your people will do no wrong. Let us try and prevent it if we can. We expect the chiefs to look to this and if there is any of their people who have stolen property and have it on hand it is my heart they should give it up to the Agent, and the Agent will do all he can to return your property.

We have, my brother, told you that we had a few goods to give you. Your people are not all here to receive them. We have been here a long time and cant remain to see you all. We shall therefore give these goods into the hands of the chiefs and we expect the Head Chiefs to call his chiefs and see them distributed justly.

My Brother, Gov. Stevens, will furnish the Nez Perce's with goods. Mr. Thompson and myself will furnish the

Cayuse, Walla Walla and Umatillas with goods. And when we get through talking the head chiefs of the Cayuses, Walla Wallas, Umatilla will go receive the goods and take care of them.

We have not got a great many goods but when this paper goes to the President and he says it is good, then we will supply you with other goods, and we shall do all things that we have agreed upon. Mr. Thompson will be the Agent for the Cayuses, Walla Wallas, and the Umatillas.

When we part we will all go to our homes with good hearts towards each other. When we have built the blacksmith shops, saw mills, and chiefs home and other things we have agreed to. Then we expect you will go upon the reservation, and when you go and if you leave your little farms and improvements they will be vallued and you will be paid for them.

I shall go home with a good heart towards all your people, and I shall be very sorry if I hear your people have done wrong. I have nothing more to say at present.

If any of you have anything to say we are ready to listen to you.

Gov. Stevens: I will say to the Nez Perce's, I hope to visit them in their own country when I come back from the Blackfoot Council. I hope also to visit the Yakamas on my return.

The Cayuses, Walla Wallas and Umatillas will look to Gen. Palmer hereafter. They will also look upon me as their friend.

Tin-tin-meet-see: I understand you well. We are never the beginners in doing wrong to the whites. All Indians here understood well what has been said. When your white children come into this country they do things at random. (to the Indians) You have heard all that has been said and now let us go home and do right.

Eagle of the Light: My forefathers are all dead, I only am left, there is but the encampment remaining, it is good to hear and think of each other. We have heard good words spoken from the President to take care of us poor people well. His children's way you have come here to see. For days our bodies have been together, also the night and also for years, also for winters. You have shown that he likes his red children. I do not want our hearts to come together wrong, but right, and remain so as long as we are a people, and we will stop the bad people on both sides. The Lord will reward us both when our hearts are good that we will look and care for each other,--The old and the young will go right and then all will be right--from little could come great difficulties - that is the reason we speak from small things to big ones - that is all at present.

James Said: It is not from anything bad that I have not spoken. It is as though the man I speak of is not of the party. When the white people came to my country Mr. See told me when he came there he was coming for good and not for bad. When the white people come and they would come in great numbers do not do anything bad to them. I have never done bad to them. I wish Mr. Craig to stay with us and hear the Indians speak for he could speak to our people and they could understand him—therefore I wish him to stay.

Red Grizzly Said: I like your talk - you talk well. When you have finished I like it still, this you have brought us from the President. I like that talk my friends. From the time I spoke here I have been sick at heart. This man who has just now spoken, he spoke a little longer because he knows how to speak and there is also another who has just come, The Looking Glass, they speak straight and friendly. You have also spoken friendly, and shown them your heart plainly-not that I am a good man that I like it. My heart is glad as though I see your heart when I hear your words. What I have good to speak I have not spoke yet. (here he was interupted by the Indians when the Red Owl said the young chief wished to say that he wanted you to stop the whites from taking their horses or cattle and if my horses go across the line of the reservation which is a small one I do not want these horses and cattle to be taken off because they are over the line).

Gen. Palmer said: My brethren. This man has said from little things grow great ones. It is true, it is so—a single word spoken unkindly leads to a difficulty. It would be better if we always would not do or say bad things, but if little things are done wrong we should try and forget them. I have been told that there are sometimes difficulties among the Indians in reference to their mode of worship. That is a thing that we do not interfere with. We are willing to let the people worship God as they please. We do not say do this or do that. If their heart is to sing or pray and preach it is good, if others say it is not our heart to pray and to preach it is good, but we want all people to be good people. If those who sing and pray think it is good, let them to try to convince others. Talk kindly, treat them kindly and convince them they will do right. Some will worship

one way and some will worship another - do not quarrel about it but worship or not worship, we want you to have good hearts. I have done.–

Looking Glass Says:

As so many are now working, some other time you and I will have a heart. I have a good head and a good heart, by and by we will have a talk.

Council Adjourned sine die at three o'clock.

We hereby certify the above to be a true record of the proceedings.

SS James Doty

Secty. To Treaties in W. Terry.

SS Wm. McKay

Secty. To Treaties in O.T.

Approved

Isaac Stevens

Gov. & Supt. W.T.

Joel Palmer

Supt. Ind. Affairs

for O.T.